

Farmworker Protective Laws

An Online Guide for Farmworkers
in the United States and Puerto Rico

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CONTENTS

INTRODUCTION	1
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FEDERAL LAWS

CHILD LABOR	3
CIVIL RIGHTS.....	3
HEALTH AND SAFETY	5
HOUSING	6
INSURANCE AND COMPENSATION	9
LABOR CONTRACTORS AND WORKER RECRUITMENT	10
LABOR RELATIONS AND COLLECTIVE BARGAINING	12
PESTICIDES AND AGRICULTURAL CHEMICALS	12
TRANSPORTATION	17
WAGES AND HOURS.....	19

STATE LAWS

ALABAMA	23	NEBRASKA.....	164
ALASKA	24	NEVADA	169
ARIZONA	29	NEW HAMPSHIRE.....	175
ARKANSAS	35	NEW JERSEY.....	179
CALIFORNIA.....	39	NEW MEXICO.....	187
COLORADO	53	NEW YORK.....	193
CONNECTICUT.....	58	NORTH CAROLINA.....	200
DELAWARE.....	63	NORTH DAKOTA	207
FLORIDA.....	67	OHIO.....	210
GEORGIA	74	OKLAHOMA.....	216
HAWAII.....	76	OREGON	219
IDAHO.....	83	PENNSYLVANIA	230
ILLINOIS.....	88	PUERTO RICO	239
INDIANA.....	95	RHODE ISLAND	249
IOWA.....	100	SOUTH CAROLINA	255
KANSAS.....	106	SOUTH DAKOTA.....	258
KENTUCKY.....	110	TENNESSEE.....	261
LOUISIANA.....	114	TEXAS	266
MAINE	118	UTAH.....	274
MARYLAND	124	VERMONT.....	278
MASSACHUSETTS.....	131	VIRGINIA	283
MICHIGAN	137	WASHINGTON	288
MINNESOTA	145	WEST VIRGINIA	298
MISSISSIPPI.....	154	WISCONSIN	302
MISSOURI	156	WYOMING.....	313
MONTANA	160		

RELATED PROGRAMS AND ENFORCEMENT ASSISTANCE

U.S. DEPARTMENT OF LABOR FARMWORKER PROGRAMS.....	317
AGRICULTURAL WORKER LEGAL ASSISTANCE PROJECTS.....	323
STATE MONITOR ADVOCATES	326

Introduction

WHAT THIS GUIDE IS

This publication is designed to inform farmworkers in the United States, as well as in the Commonwealth of Puerto Rico, of some of the protections extended to them by federal and state labor laws. It contains short, simplified descriptions of job-related laws and regulations which affect agricultural workers, and identifies the agencies responsible for enforcing them. In general, each of the 871 legal provisions summarized in the guide imposes certain duties or restrictions on farm employers for the protection or benefit of their employees, and authorizes penalties against employers who fail to comply.

WHAT THIS GUIDE IS NOT

The law summaries in this guide do not represent an official interpretation of the law by any government agency or by any court, nor are they copies of the law itself. Not all employment-related protective provisions are mentioned, but only those which apply to some or all seasonal farmworkers, working on the farm in harvest and other field crop operations. Laws which completely exclude farmworkers from their coverage, and any conditions or exceptions to the law which are not likely to occur among or apply to farmworkers and their families, are not included.

HOW THE GUIDE IS ARRANGED

Federal Laws. The first section of the guide contains descriptions of laws established by Congress, provisions which apply to affected employers and workers in all parts of the country and are administered by agencies of the U.S. government. The federal laws are grouped under ten distinct categories, according to the type of protection they offer to the worker. The popular name of each law is marked by a circular symbol (●), followed by a summary of its main provisions ("Terms"), the name of the agency which administers or enforces it ("Enforcement"), and in some cases a note or two about special rights under the law, limitations on the law's enforcement, or related details.

State Laws. Labor protections established by the legislatures of the 50 states and Puerto Rico are described in the second section of the guide. The laws of a particular state apply to workers while they are living or working there, even if only temporarily, and may often provide workers with more favorable safeguards or benefits than federal laws dealing with the same subject. Like the summaries in the federal section, each state entry includes the common name of the law, a brief explanation of its terms and conditions, and the name, location, mail-address ZIP code, and telephone number of the enforcement agency's headquarters office.

Related Programs and Enforcement Assistance. The last section of the guide presents information regarding several sources of help for farmworkers who have questions about their job-related rights, or a specific complaint about some aspect of their employment which cannot be resolved by contacting the proper enforcement agency.

GETTING HELP FROM A FEDERAL OR STATE ENFORCEMENT AGENCY

A worker who is faced with a problem or question related to a law mentioned in this guide may contact the nearest office of the enforcement agency identified in the summary. Many local or area offices of federal agencies may be found in the local telephone directory, listed under "United States Government," or on the website USA.gov. Likewise, local or district offices of a state agency may be listed in the telephone book under the name of the state, or can be located by calling the agency's headquarters office at the number shown in the summary or by entering the agency name on an Internet search engine like Google or Bing.

IMPORTANT REMINDERS

The material contained in this publication is based on laws in effect and other existing circumstances as of early 2017. The reader should keep in mind that the laws do change, and any question about the current language or interpretation of a law or regulation should be referred to an appropriate agency or a knowledgeable attorney.

Workers should also be aware that the existence of a law does not guarantee that it will be properly enforced. When a complaint to a public agency is not resolved to the worker's satisfaction, it is advised that the worker contact a legal services program or a private attorney about the possibility of court action.

Federal Laws

CHILD LABOR

● FAIR LABOR STANDARDS ACT OF 1938 (*CHILD LABOR*)

TERMS:

Age Restrictions — No one under the age of 16 may be employed in agriculture during local school hours, even if state law does not require the child to attend school. Outside school hours, no one under the age of 14 may be employed in agriculture, except under the following conditions:

Children Under Age 12 — Children younger than 12 years old may be employed in non-hazardous farm activities outside school hours, but only with the written consent of their parents and generally only on farms where none of the workers are legally entitled to the federal minimum wage.

Exception — On farms subject to the minimum wage, children age 10 and 11 who live permanently in the local area may be employed in hand-harvest piecework-paid jobs for up to 8 weeks between June 1 and October 15, provided the farm operator has obtained special authorization from the U.S. Department of Labor. The Department may grant authorization only after determining, among other things, that employment of 10- and 11-year-olds would not threaten their health and well-being, and that the level and type of pesticides used would not have a negative effect on the children's health.

Children Age 12 and 13 — Children 12 and 13 years of age may be employed in non-hazardous agricultural activities outside school hours, but only with the written consent of their parents, or if the job is on the same farm where their parents are also employed.

Hazardous Occupations — No one under the age of 16 may be employed in any agricultural operation declared hazardous by the Secretary of Labor. This would include, among many other prohibited activities, (1) operating high-power tractors, (2) operating or helping to operate power-driven harvesting machines, (3) driving a bus, truck or automobile transporting passengers, (4) working from a ladder at a height of over 20 feet, and (5) handling or applying agricultural chemicals.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

CIVIL RIGHTS

● CIVIL RIGHTS ACT OF 1964 (*TITLE VII*)

TERMS: With only limited exceptions, farm operators and other employers who have 15 or more employees for each working day in each of 20 or more weeks this year or last are prohibited from engaging in any of the following practices:

- (1) Refusing to hire a job applicant, harassing or firing an employee, or discriminating in any other way against an individual with respect to wages and other terms or conditions of employment, because of the individual's race, color, religion, national origin, or sex (including gender identity, sexual orientation, and pregnancy).
- (2) Segregating, limiting or classifying job applicants or employees in any way which would deprive them of job opportunities or negatively affect their job status, on the basis of race, color, religion, national origin, or sex (including gender identity, sexual orientation, and pregnancy).
- (3) Printing or publishing notices or advertisements indicating a preference or specification based on race, color, religion, national origin, or sex, except where such preference or specification is a bona fide occupational qualification for employment.

Similar discriminatory practices by employment agencies and labor organizations are also unlawful.

ENFORCEMENT: *Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000).* A worker who has been affected by an act of illegal employment discrimination may file a complaint with any district, area or local office of the Commission, but generally no later than 180 days after the act occurred.

If the Commission dismisses the complaint or fails to take action on it within certain time limits, the worker may take legal action against the employer involved directly, using a private attorney or a public legal services program.

SPECIAL NOTE: Numerous state and local agencies have been authorized by the Commission to investigate and resolve employment discrimination cases under state and local laws similar to the Civil Rights Act. In those localities, a worker may not file a complaint with the Commission until at least 60 days after the complaint is filed with the state or local agency, or until action by the state or local agency is terminated, whichever occurs first.

SPECIAL NOTE: An employer may not fire, punish or discriminate against a worker or job applicant because the worker or applicant has filed a complaint or made use of any other right granted by this law.

● **EQUAL PAY ACT OF 1963**

TERMS: In general, no employer who has any employee covered by the federal minimum wage (*see entry, U.S. — Wages and Hours*) may pay wages to workers at a rate less than the rate the employer pays workers of the opposite sex at the same establishment for substantially equal work, on jobs requiring equal skill, effort and responsibility and performed under similar working conditions.

Different pay scales, however, may be lawful when wages are determined according to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other system based on any factor other than sex.

ENFORCEMENT: *Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000).* A worker who has not received the pay he or she is entitled to under the Equal Pay Act may file a complaint with any district, area or local office of the Commission.

As an alternative to enforcement action by the Commission, the worker has a right to take legal action against the employer in civil court, using a private attorney or a public legal services program. Any such action must be filed no later than 2 years after the discrimination occurred (within 3 years in the case of a willful violation).

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or participated in an investigation or other action under this law.

● **AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967**

TERMS: In general, farm operators and other agricultural establishments that employ at least 20 workers on each workday in 20 or more weeks this year or last are prohibited from refusing to hire a job applicant, harassing or firing a worker, or discriminating against a person with respect to pay or other terms or conditions of employment, because the person is 40 years of age or older.

Further, such employers may not segregate or classify their workers in any way which would limit an individual's job opportunities, or otherwise negatively affect the individual's status as an employee, for reasons of age.

This law does not prohibit employment practices based on age where age is a bona fide occupational qualification, nor does it forbid an employer from using a bona fide seniority system or benefit plan based on reasonable factors other than age.

ENFORCEMENT: *Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000).* Anyone claiming to have been subjected to job-related age discrimination may file a complaint with any district, area or local office of the Commission, generally within 180 days after the discrimination took place.

Workers have the option of filing a civil suit on their own for damages related to a violation, using a private attorney or public legal services program. However, a worker may not take legal action until 60 days after first filing the complaint with the Commission, and the right to sue ends once the Commission initiates court action to enforce the worker's rights under the Act.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker or job applicant because the worker or applicant has filed a complaint, participated in a proceeding, or opposed an illegal practice under the Act.

● **IMMIGRATION AND NATIONALITY ACT (IMMIGRATION-RELATED EMPLOYMENT DISCRIMINATION)**

TERMS: Under most circumstances, no one who employs more than 3 workers may discriminate against any individual (other than an undocumented worker) with respect to hiring, firing, job recruitment or job referral, when such discrimination is because of (1) the individual's national origin, or (2) the individual's status as a U.S. citizen, or status as a non-citizen who applied for citizenship within 6 months of becoming eligible or has applied and not been naturalized within 2 years after the date of application.

It is not regarded as unlawful for an employer or any other person to prefer to hire, recruit or refer a U.S. citizen over a non-citizen, if the two individuals are equally qualified.

ENFORCEMENT: *Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530 (202-616-5594; toll-free 800-255-7688).* A person who has been affected by an act of unfair immigration-related employment discrimination may file a complaint with the Immigrant and Employee Rights Section at any time within 180 days after the act occurred.

SPECIAL NOTE: A person may not fire, punish or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law.

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

TERMS: With certain exceptions, farm operators and most other employers are required to furnish their employees with a job and a place of employment free from hazards that could cause death or serious injury, and must comply with federal safety and health standards that apply to their particular place of employment.

Among other agriculturally related safety and health regulations adopted by the U.S. Department of Labor, farm employers who (1) have more than 10 non-family employees, or (2) have operated a temporary labor camp within the preceding 12 months, are required to comply with standards for the safety of employees operating or working around tractors and other farm equipment, briefly summarized here:

Roll-Over Protections on Tractors — Farm tractors must be properly equipped with structures and devices to protect workers against roll-over hazards. The standards include test procedures and performance requirements for protective frames and enclosures for wheel-type agricultural tractors.

Safety Measures on Other Agricultural Equipment — The regulations prescribe both operating instructions and design specifications to safeguard operators of farm field equipment, stationary farm machinery, and cotton ginning equipment.

ENFORCEMENT: *Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742).*

Under a written plan approved by the Occupational Safety and Health Administration, each of the following states is authorized to enforce its own agricultural equipment safety standards, identical or very similar to those described above:

Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

In these states, OSHA generally does not play a part in enforcing the farm equipment safety provisions. For the name of the state agency responsible for compliance, see the first summary under the heading "Health and Safety" for the particular state of interest.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (FIELD SANITATION)

TERMS: Every farm operator or other agricultural establishment that has 11 or more worker on any given day in hand-labor operations in the field must provide the workers with the sanitation facilities described below, without cost to the workers. The employer is required to notify workers of the location of the facilities and afford them reasonable opportunities during the workday to use them.

Drinking Water — Field workers are entitled to a sufficient amount of suitably cool, readily accessible drinking water which meets state or federal health standards. The water provided must be dispensed in single-use drinking cups or by fountain; the use of common drinking cups or dippers is prohibited. Likewise, containers used to store and dispense water must be kept covered, refilled daily (or more often, if necessary), and cleaned regularly.

Toilet and Handwashing Facilities —

Required Equipment — Employers subject to these requirements must provide at least one toilet and one handwashing facility for every 20 workers. Toilet facilities must be adequately ventilated and screened, must have self-closing doors, and must be constructed to assure privacy. Employers are required to maintain toilets and handwashing units in clean and sanitary condition, and to equip them with an adequate supply of toilet paper, soap and single-use towels.

Exception — Toilet and handwashing facilities are not required for workers who perform field work for a period of 3 hours or less during the day (including travel time to and from the field).

Distance Limitation — Sanitation equipment generally must be located within a 1/4-mile walk of each worker's location in the field. However, where the distance limit cannot be met because of ground conditions, the facilities must be placed at the point closest to the field where entry by vehicles is still possible. The toilet and handwashing facilities must be near each other.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Under a written plan approved by the Occupational Safety and Health Administration, each of the following states is authorized to enforce its own field sanitation standards, identical or very similar to those described above:

Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

In these states, the Wage and Hour Division generally does not play a part in enforcing the field sanitation provisions. For the name of the state agency responsible for compliance, see the field sanitation summary under the heading "Health and Safety" for the particular state of interest.

HOUSING

● MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

TERMS: In general, no housing facility may be occupied by a migrant agricultural worker unless a state or local health department or other appropriate agency has certified that the facility meets the safety and health standards that apply to the housing, and no person who owns or controls the housing may permit it to be occupied by a migrant agricultural worker unless a copy of the certification of occupancy is posted at the site.

Any person who owns or controls property used as housing for migrant farmworkers is responsible for ensuring that the property complies with the federal and state safety and health standards that apply to it.

In their application for federal registration, farm labor contractors are required to identify each facility or property to be used to house any migrant farmworker. If a contractor owns or controls any such facility or property, there must be documentation submitted with the application showing that the housing has been certified for occupancy. A farm labor contractor may not house migrant farmworkers unless authorization to do so is indicated on the face of the contractor's registration certificate.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Apart from any enforcement action by the Department, a worker who has been harmed as a result of a violation of this law may take legal action against the contractor, employer or other person responsible for the violation directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Any such act of retaliation should be reported to the Wage and Hour Division within 180 days after it occurs.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (TEMPORARY LABOR CAMPS)

TERMS: Farm operators and other agricultural employers who operate temporary labor camps for the use of their workers must comply with specific requirements concerning the location, construction and equipment of those facilities. Some of the key provisions of the temporary labor camp standards are summarized here.

Site — The land on which a labor camp is located must be adequately drained, protected against flooding, and situated no closer than 200 feet to pools of water. The property must be large enough to prevent crowding of housing units and other buildings, and must be at least 500 feet from areas where livestock is kept.

Construction — The housing must be constructed in such a way as to protect occupants from exposure to the elements. Sleeping rooms must contain at least 50 square feet of floor space per occupant and have ceilings at least 7 feet in height. Beds must be provided and spaced to avoid overcrowding. Floors, windows, doors, heating, and cooking facilities must meet specific rules of construction and safety.

Water Supply — An adequate and convenient water supply, approved by a state or local health authority, must be provided.

Toilet Facilities — An adequate number of toilet facilities in relation to the capacity of the camp must be provided, in accordance with prescribed specifications.

Sewage Disposal — Toilets and drains must be connected to a public sewer system, where available.

Laundry and Bathing Facilities — Laundry, handwashing, and bath or shower facilities, with hot and cold running water, must be provided in specified numbers, according to the occupancy of the camp. Clothes-drying facilities must also be provided.

Lighting — Where electricity is available, light fixtures and electrical outlets must meet minimum requirements as to number and location.

Trash and Garbage — At least one container for the disposal of trash and garbage must be furnished for each family, within 100 feet of the unit.

Cooking and Eating Accommodations — Equipment for preparing and serving meals must be provided in each family unit or in central cooking and eating areas. Such facilities must comply with specified food service standards.

Pest Control — Preventive measures for the control of insects, rodents and other pests at the camp site and in living areas must be followed.

First Aid — Adequate and accessible first-aid facilities, approved by a public health authority, must be supplied and maintained in every camp, for emergency treatment of injuries.

Communicable Disease Reporting — The person in charge of the camp must report to the local public health authority all cases of communicable disease, food poisoning, and similar outbreaks.

ENFORCEMENT: *Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742).*

Under a written plan approved by the Occupational Safety and Health Administration, each of the following states is authorized to enforce its own temporary labor camp standards, identical or very similar to those described above:

Arizona, California, Hawaii, Maryland, Michigan, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, Tennessee, Vermont, Virginia, and Washington.

In these states, OSHA generally does not play a part in enforcing the labor camp provisions. For the name of the state agency responsible for compliance, see the first summary under the heading "Housing" for the particular state of interest.

● WAGNER-PEYSER ACT

TERMS: No employer may use the public employment service — including local offices of the state workforce agency — to recruit farmworkers from places outside the area of intended employment unless certain conditions are met relating to employee housing. Workforce agency recruitment assistance will be denied unless (1) the employer has agreed in writing to comply with pertinent laws and regulations, (2) any housing that the employer intends or is required to provide to the recruited workers has been inspected prior to occupancy, and (3) the state workforce agency has determined that the housing meets federal standards.

In general, farm labor housing facilities built after early 1980 must meet the U.S. Occupational Safety and Health Administration's standards for temporary labor camps, described in the previous summary. Housing facilities constructed or under construction before that time must meet either the OSHA regulations or the agricultural worker housing standards prescribed by the U.S. Employment and Training Administration. The ETA standards contain detailed specifications, summarized here:

Housing Site — Sites must be well-drained and sanitary and must provide reasonable recreation space.

Water Supply — The facility must provide an adequate and convenient supply of water that meets state health standards.

Waste Disposal Facilities — There must be facilities for effective disposal of sewage.

Housing Structures — Housing must be structurally sound, in good repair and in sanitary condition.

Screening — All outside openings must be equipped with screens.

Heating — Heating devices must be provided if outside temperatures during periods of normal occupancy fall below 68 degrees F. Stoves and combustible-fuel heaters must be vented and comply with other prescribed safety standards.

Electricity and Lighting — All housing sites must be provided with electric service, and units must be equipped with safe and operable light fixtures and outlets.

Toilets — Toilets or privy seats, in the ratio of not less than one for each 15 occupants and located within 200 feet of each living unit, must be provided and must meet other numerical and qualitative standards.

Bathing and Laundry Facilities — Bathing and laundry facilities, supplied with hot and cold water under pressure, must be located within 200 feet of each living unit. Among other requirements, there must be at least one showerhead and one wash basin for every 15 persons.

Cooking and Eating Facilities — Cook stoves or similar equipment, as well as food preparation and storage space, must be furnished, in conformity with detailed criteria.

Garbage Facilities — Each unit must have nearby access to clean, fly-tight containers for the disposal of garbage and other refuse, in a minimum ratio of one such container for every 15 occupants. Provision must be made for collection at least twice a week.

Insect and Rodent Control — Housing and facilities must be free of insects, rodents and other pests. **Sleeping Facilities** — Beds, cots or bunks, together with clean mattresses, must be provided for all occupants.

Safety and First Aid — All structures must be maintained in accordance with state or local fire and safety laws, must provide practical means of escape, and must be equipped with fire extinguishing and first-aid equipment. No flammable liquids or materials other than those for immediate household use may be stored in or around living areas, and agricultural pesticides and toxic chemicals may not be stored in proximity to the housing units.

ENFORCEMENT: *Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3046).* ETA monitors the operation of the federal-state employment service system and is responsible for assuring that employers comply with all of the legal conditions on recruitment of workers. However, compliance with the ETA housing standards by employers using the employment service to recruit farmworkers is the immediate responsibility of the designated state workforce agencies. For a list of those agencies, see the "State Monitor Advocates" listing in the last section of this guide..

● IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)

TERMS:

Assurance of Cost-Free Housing — Every employer applying for the use of foreign agricultural workers under the so-called "H-2A" program must assure that housing is available for any worker who is not able to return to his or her own home each day, at no charge to the worker. The employer's obligation to provide cost-free housing applies not only to the foreign workers admitted to the U.S. under the H-2A application (if approved), but also to those U.S. workers recruited before approval of the application, and to any U.S. workers hired by the employer afterwards to perform the same services in the same area. Furthermore, when it is common practice for growers in the local area to provide farmworkers with family-type housing, family housing must be provided to those U.S. workers recruited in connection with an H-2A job offer who request such housing for themselves and their families.

Housing Standards and Inspection — Housing facilities owned or operated by the employer must be inspected and found in conformance with the OSHA or ETA farmworker housing standards (summarized in earlier entries, above), or the employer's H-2A application will be denied. As an alternative, the employer may arrange to house the workers in rental units or public housing which meets local, state or federal standards, but any charges for the use of such facilities must be paid by the employer. The workers may not be charged for housing-related items furnished to them, such as bedding, and only under certain conditions may the employer require workers found responsible for damages to housing or facilities to pay for them.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* The Wage and Hour Division is responsible for enforcing the required work contract — including the provision regarding free worker housing — between employers who use foreign workers under the H-2A program, and the foreign and U.S. workers recruited under the H-2A application.

Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

INSURANCE AND COMPENSATION

● FEDERAL UNEMPLOYMENT TAX ACT

TERMS: A farm operator or other agricultural employer who paid at least \$20,000 in cash wages for agricultural labor in any 3-month period (calendar quarter) in the current or previous year, or employed at least 10 agricultural workers in each of 20 different weeks this year or last, must pay federal unemployment insurance taxes.

Most such employers are also required to pay unemployment taxes to the state, which ordinarily results in a corresponding reduction in the amount of the employer's federal tax. Taxes collected by the state are used to pay unemployment insurance benefits to individuals who are out of work.

Farmworkers who are unemployed but are available for work may qualify for unemployment benefits if they have recent earnings from employers who have paid state taxes on their behalf and meet other eligibility requirements under the state unemployment insurance law.

ENFORCEMENT: *Office of Unemployment Insurance, Employment and Training Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-3032).* This agency supervises the unemployment insurance system nationally, but unemployment benefits (and the taxes that finance those benefits) are administered by the states, each of which has its own coverage and eligibility rules. For a description of coverage and the name of the state agency that administers the unemployment program, see the first summary under the heading "Insurance and Compensation" for the particular state of interest.

● SOCIAL SECURITY ACT; FEDERAL INSURANCE CONTRIBUTIONS ACT

TERMS: The Social Security Act authorizes monthly cash payments to insured workers for long-term disability and retirement, as well as cash benefits for their survivors. Social Security benefits are financed through a tax on wages, authorized by the Federal Insurance Contributions Act and paid by employers, employees and the self-employed.

Employer Contributions — Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to pay FICA (Social Security) taxes on behalf of their agricultural employees. On the other hand, an employer whose yearly wage payments amount to less than \$2,500, but who pays at least \$150 in cash wages to a particular farmworker during the year, must pay FICA taxes on that worker's wages.

Worker Contributions — The employer's share of the tax is currently 7.65 percent of each worker's wages, and the worker is required to contribute an equal amount, which the employer must deduct from the worker's earnings each time wages are paid. As FICA taxes are withheld throughout the year, the employer must regularly forward both the employer's and the worker's share to the U.S. treasury, and by January 31 of the following year the employer must report the total amount of wages paid and FICA taxes withheld to the Social Security Administration for proper credit to the worker's earnings record. Compensation paid to the worker in any form other than cash (such as housing or transportation, for example) is not considered wages for Social Security purposes.

Benefits — A worker's eligibility for Social Security benefits, as well as the amount of those benefits, depends on the number of quarters of coverage the worker has accumulated as an employee. In 2017, a worker must have at least \$1,300 in FICA-covered earnings during a 3-month calendar period to receive credit for one quarter of coverage. Farmworkers who have sufficient quarters of coverage and meet other eligibility requirements may qualify for full or reduced Social Security benefits, as determined through regular application processing procedures.

In general, disability benefits are payable only in the case of a disability that is expected to last at least 12 months or can be expected to result in death, and only when the worker meets the required period of covered employment. Retirement benefits are generally payable beginning at age 62, provided the worker has at least 40 quarters of coverage, or one quarter of coverage for each calendar year after age 21 and before age 62.

ENFORCEMENT: *Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710).* IRS is responsible for collection of FICA taxes from employers. Any worker who believes that taxes are being incorrectly deducted from wages, or improperly reported to the government, should contact the nearest office of IRS.

The agency responsible for the administration of benefits is the *Social Security Administration, U.S. Department of Health and Human Services, Baltimore, Maryland 21235 (410-965-0100)*. Any question about benefits and credits to the worker's earnings record may be directed to the nearest Social Security office. Offices can be located by phone, at 800-772-1213 (toll-free), or online at secure.ssa.gov/ICON/main.jsp.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

TERMS: The Migrant and Seasonal Agricultural Worker Protection Act provides for the registration of farm labor contractors, establishes restrictions on their activities, and prescribes requirements that farm labor contractors, agricultural employers, agricultural associations and others must follow for the protection of migrant and seasonal farmworkers.

Exception — This law *does not apply* to those who engage in farm labor contracting activity only within 25 miles of their permanent place of residence, only within their home state, and for not more than 13 weeks a year.

Registration — In general, anyone who charges a fee to recruit, hire, furnish or transport any migrant or seasonal agricultural worker must have a certificate of registration issued by the U.S. Department of Labor, specifying which farm labor contracting activities the person is authorized to perform. Registered farm labor contractors and their registered assistants must carry their certificates at all times while performing contracting activities and must, when requested, show the certificate to everyone they deal with as a farm labor contractor.

Confirmation of Registration — No one may use the services of a farm labor contractor to supply any migrant or seasonal agricultural worker without first determining that the contractor has a valid registration certificate which authorizes the activity for which the contractor would be utilized.

Migrant Worker Protections — Every farm labor contractor, agricultural employer and agricultural association that employs any migrant agricultural worker (those who work seasonally or temporarily and who are required to be absent overnight from their permanent place of residence) must comply with specific duties and responsibilities, some of which are summarized here:

Disclosure of Information — Any contractor, employer or association that recruits any migrant worker for employment must, at the time of recruitment, provide the worker with a written statement specifying (1) the place of employment, (2) the wage rates to be paid, (3) the crops and crop activities the worker may be involved in, (4) the period of employment, (5) the transportation, housing and any other benefits to be provided, as well as the cost to be charged for each of them, (6) the existence of any strike or similar labor activity at the workplace, (7) whether or not the contractor or the employer will receive a commission or other benefit from any store or other business that may provide goods or services to the workers, and (8) any workers' compensation coverage to be provided.

Posting — Contractors, employers and associations that employ migrant workers must post in plain sight at the place of employment a poster outlining the rights and protections afforded by this law. Whenever housing is provided to the workers, the contractor, employer or association must post or furnish each worker a written statement of the terms and conditions of occupancy.

Payroll Records — Farm labor contractors, farm employers and farm associations that employ migrant workers must keep detailed records of each worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total pay period earnings, the purpose and amount of each deduction made from the worker's pay, and net pay. Payroll records must be preserved for at least 3 years.

Payment of Wages — Migrant farmworkers must receive their wages when due, but in no case less often than every 2 weeks or twice a month. At the time of payment, each migrant worker employed must receive an itemized written pay statement for the period covered, showing the worker's pay rate, piecework units earned (if paid on a piecework basis), hours worked, total earnings for the pay period, the purpose and amount of each deduction made from the worker's pay, and the net amount of pay.

Compulsory Purchases — No farm labor contractor, agricultural employer, or agricultural association may require any migrant worker to purchase goods or services solely from the contractor, employer or association.

Safety and Health of Housing — The Act prescribes specific conditions for the provision of housing to migrant farmworkers, including requirements for pre-occupancy inspection and certification (*see entry, U.S. — Housing*).

Seasonal Worker Protections — Farm labor contractors, agricultural employers and agricultural associations that employ seasonal farmworkers (those who work seasonally or temporarily, but are not required to be absent overnight from their permanent residence) must comply with essentially the same information, posting and wage payment requirements, and observe the ban on forced purchases, that apply to the employment of migrant farmworkers, as outlined above.

False or Misleading Information — No contractor, employer or association may knowingly provide false or misleading information to any migrant or seasonal worker concerning the terms, conditions or availability of employment.

Language Requirements — The information required to be disclosed to migrant and seasonal workers under this law must be furnished in writing, either in English or in the language most easily understood by the workers involved.

Motor Vehicle Safety — The transportation of migrant and seasonal farmworkers by farm labor contractors, agricultural employers and agricultural associations must comply with safety standards prescribed in the Act, including requirements for insurance coverage (*see entry, U.S.— Transportation*).

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Apart from any enforcement action by the Department, a worker who has been harmed as a result of a violation of this law may take legal action against the contractor, employer or other person responsible for the violation directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Any such act of retaliation should be reported to the Wage and Hour Division within 180 days after it occurs.

● IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)

TERMS: No sooner than 75 days and no later than 60 days before an agricultural job is expected to begin, a farmer or growers' association that anticipates a shortage of U.S. workers and wants to be able to use temporary foreign workers under the so-called "H-2A" program, must submit a job offer to the U.S. Department of Labor and the state employment service, and begin an active effort to locate U.S. workers for the jobs described in the offer. Up until the government certifies the need for foreign workers (if any), the active effort to recruit U.S. workers for the jobs involved must continue.

Once an H-2A application is approved, from the time the foreign workers leave for the U.S. until half the specified employment period has passed, the employer must hire any qualified U.S. worker who applies for any of the jobs for which the H-2A workers were approved. This rule does not, however, apply to any farm operator or other H-2A employer who did not use more than 500 worker-days of agricultural labor in any calendar quarter in the preceding year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December) and who is not associated with other employers applying for or utilizing H-2A workers.

An H-2A job offer must meet certain minimum standards and guarantees, some of which are summarized below. All of these provisions must be written into a formal work contract and given to each worker no later than the first day of employment. Both the job offer and the work contract must provide U.S. workers with the same benefits, wages and working conditions that are provided to the H-2A workers.

Pay Rates — For every hour on the job in any pay period, each worker is entitled to receive no less than (1) the federal minimum wage, (2) the state minimum wage, (3) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, or (4) the prevailing wage rate, whichever of the four figures is highest.

Guaranteed Paid Workdays — In general, all U.S. and H-2A workers employed in comparable jobs by an H-2A employer are guaranteed employment for at least 3/4 of the workdays in all periods during which the work contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay each worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays.

Wage Payments, Deductions, and Statements — Employers who utilize temporary foreign agricultural workers must pay both their foreign and U.S. workers at least twice a month, or more often if it is common practice in the local area to do so. Employers are generally permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, but any non-required deductions must be specified in the contract. On or before each payday, the employer must provide each worker with a written statement showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

Workers' Compensation — At no cost to the worker, each H-2A employer is obligated to obtain workers' compensation or equivalent insurance to cover medical expenses and related benefits in the event of a worker's injury on the job or occupational disease.

Transportation — Each foreign or U.S. worker who completes half of the work contract period is entitled to repayment for the worker's meal and transportation expenses between the place from which the worker has come to work for the employer and the place of employment. Transportation and meal costs must be advanced to the worker before the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so. Likewise, if the worker completes the contract period, the employer is obligated to provide or pay for the worker's transportation and meals back to the place of origin or the next place of employment. During the course of the contract, the employer must furnish transportation between the worker's housing and the worksite, without cost, if the worker is unable to return to his or her own home within the same day.

Housing — To those workers who are not able to return to their home each day, the employer must provide housing without cost to the worker. Housing facilities owned or operated by the employer must meet federal farmworker housing standards, while rental units or public housing must generally comply with whatever local, state or federal standards apply. When it is common local practice to provide farmworkers with family-type housing, family housing must be provided to those U.S. workers employed under an H-2A work contract who request it for themselves and their families.

Meals — An H-2A employer must either serve the workers three meals a day or furnish free and convenient cooking facilities to enable the workers to prepare their own meals. The workers may be charged for the cost of meals provided by the employer, but meal charges generally may not exceed a prescribed limit (currently \$10.64 per day).

Supplies and Equipment — Unless it is common practice in the particular locality and crop operation for workers to provide their own, the employer must furnish all supplies, tools and other equipment required to perform the assigned tasks, without any charge or deposit.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072)*. This agency is responsible for enforcing the required work contracts between certified H-2A employers and their foreign and U.S. workers performing services under those agreements. When investigation discloses evidence of a violation, the agency may impose penalties and order the person or company to meet its obligations under the contract.

Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

LABOR RELATIONS AND COLLECTIVE BARGAINING

● NATIONAL LABOR RELATIONS ACT

TERMS: The National Labor Relations Act, which guarantees the right of most U.S. workers to organize and to bargain with their employers over terms and conditions of employment, which sets up a process for holding elections to determine if groups of workers wish to be represented by a labor union, and which defines certain unfair labor practices by employers and labor organizations, **does not apply to farmworkers**.

PESTICIDES AND AGRICULTURAL CHEMICALS

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

TERMS:

Pesticide Labeling — Every pesticide product made, sold or used in the United States must be labeled in accordance with standards prescribed in the Act. Among other required information, the label must contain a statement of ingredients, a statement indicating if the product is for general or restricted use, and the name and address of the manufacturer. If the product contains any highly toxic substance, the label must also display the skull-and-crossbones symbol, the word "Poison" in red letters, and a statement of practical treatment in case of poisoning.

Certification of Applicators — Anyone who uses or supervises the use of a restricted pesticide must be certified to do so, either by the U.S. Environmental Protection Agency or by a state agency designated for that purpose under a federally approved plan for applicator certification. As described in brief below, each applicant for certification must demonstrate competency in the use and handling of pesticides.

Commercial Applicators — Among other requirements, commercial pesticide applicators (which may include those who use or supervise the use of restricted pesticides in the production of agricultural commodities) must be tested on their knowledge of pesticide labels, pesticide hazards, precautions and first-aid procedures, pesticide equipment, application techniques, and pesticide laws and regulations. Commercial agricultural pest control applicators must, in addition, demonstrate practical knowledge of crops and the particular pests commonly associated with each crop, soil and water problems, pre-harvest application intervals, re-entry intervals, and the potential for environmental contamination, non-target injury, and community problems resulting from the use of pesticides in agricultural areas.

Private Applicators — Private pesticide applicators (which may include farm owners and operators who use or supervise the use of restricted agricultural pesticides on their own or someone else's property) must, among other things, be able to (1) read and understand pesticide labeling information, (2) apply pesticides in accordance with label instructions and warnings, (3) recognize poisoning symptoms and take appropriate action in case of a pesticide accident, (4) know how to avoid contamination of ground and surface water, and (5) understand pre-harvest and restricted-entry intervals.

Recordkeeping — Every certified applicator is required to keep accurate records of each use of restricted pesticides, including (1) the name and address of the person for whom the pesticide was applied, (2) the location of the pesticide application, (3) the target pest, (4) the specific crop and location where the product was applied, (5) the date and time of application, (6) the name and EPA registration number of the pesticide applied, (7) the dosage used, and (8) the amount of product disposed of, method of disposal, date of disposal, and location of the disposal site.

Prohibited Acts — Among other offenses defined in the law, pesticide applicators are forbidden from using any registered pesticide contrary to instructions on the product's label, failing or refusing to keep required records, making false records or reports, failing to observe any restrictions shown on their certificate, or violating any provision of the Act or the associated regulations.

ENFORCEMENT: Any state that has adopted adequate pesticide use laws and regulations, has adequate procedures for their enforcement, and agrees to keep required records and make required reports, may enter into an agreement with the federal government for the enforcement of pesticide use restrictions. Under such an agreement, the state has primary responsibility for enforcing the provisions described above.

All states except Wyoming currently have such authority. For agency information, see the first entry under "Pesticides and Agricultural Chemicals" for the state of interest.

In Wyoming and in any other state where the cooperating state agency fails to take appropriate action to assure compliance, the Act is enforced directly by the *Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090)*.

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (AERIAL APPLICATOR CERTIFICATION)

TERMS: In addition to meeting the certification requirements that apply to other categories of pesticide applicators, as outlined in the previous entry, individuals seeking certification to apply restricted pesticides using an airplane or helicopter are required to demonstrate practical knowledge of pest problems and pest control practices, including (among others) the following:

- (1) Labeling requirements and restrictions specific to application of pesticides from the air.
- (2) How to choose, calibrate and maintain aerial application equipment.
- (3) Weather-related factors to consider before and during aerial application.
- (4) Methods for minimizing off-target pesticide drift.
- (5) Competency in performing aerial applications that avoid drift and assure individual and public safety.

Private applicators who use or supervise the use of restricted pesticides applied by aircraft are subject to very similar certification requirements.

ENFORCEMENT: Any state that has adopted adequate pesticide use laws and regulations, has adequate procedures for their enforcement, and agrees to keep required records and make required reports, may enter into an agreement with the federal government for the enforcement of pesticide use restrictions. Under such an agreement, the state has primary responsibility for enforcing the provisions described above.

All states except Wyoming currently have such authority. For agency information, see the first entry under "Pesticides and Agricultural Chemicals" for the state of interest.

In Wyoming and in any other state where the cooperating state agency fails to take appropriate action to assure compliance, the Act is enforced directly by the *Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090)*.

● FEDERAL AVIATION ACT OF 1958

TERMS:

Certification — With few exceptions, it is illegal for anyone to apply pesticides and other agricultural chemicals from the air without an agricultural aircraft operator certificate issued by the Federal Aviation Administration.

Before such a certificate maybe granted, the applicant must have a commercial or private pilot's license and pass both a written examination and a flight skill test. Among other subjects, the written test covers the applicant's knowledge of safe handling and proper disposal of pesticides, the effects of pesticide exposure and precautions to be taken, the symptoms of pesticide poisoning and emergency procedures, and safe flight and pesticide application techniques.

In addition to pilot-related qualifications, an agricultural aircraft operator certificate will not be issued unless the aircraft to be used by the applicant is fit for operation in the air, as certified by the enforcement agency.

Operating Rules — Pilots applying pesticides and other agricultural chemicals must follow specific rules concerning aircraft design, equipment, and operating procedures. Among other restrictions, no one may apply any substance from an aircraft in a manner that creates a hazard to persons or property on the ground. Aerial applicators may not apply any pesticide for a use other than that for which it is registered, or contrary to any safety instructions or use restrictions on its label.

Records and Reports — Every holder of a commercial agricultural aircraft operator certificate must keep records showing (1) the name and address of each person for whom agricultural aircraft services were provided, (2) the date each service was performed, (3) the name and quantity of the pesticide applied, and (4) the name, address and certificate number of each pilot involved in the operation and the date each pilot met the knowledge and skill requirements described above.

ENFORCEMENT: *Enforcement Division, Federal Aviation Administration, U.S. Department of Transportation, Washington, D.C. 20591 (202-267-5158)*. Anyone with knowledge of a violation of these provisions may report it to any FAA regional or district office.

● FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (*WORKER SAFETY*)

TERMS: Under the Federal Insecticide, Fungicide, and Rodenticide Act, the Environmental Protection Agency has adopted safety standards for the protection of workers performing agricultural crop production activities, key provisions of which are summarized below.

Agricultural Employer Duties —

Information and Directions — Agricultural employers and farm managers must assure that pesticides are used in accordance with each product's labeling, and must provide their field workers and pesticide handlers with sufficient information and directions to assure they receive the protection of these provisions. Farm employers must also provide any labor contractor or other person who supervises workers or handlers with information and directions necessary for compliance with these provisions.

Emergency Assistance — If, within 72 hours after starting employment, a farmworker or pesticide handler shows symptoms of over-exposure to pesticides and needs emergency medical attention, the employer is obligated to (1) provide transportation from the farm or worker housing area to an appropriate medical care facility for treatment, and (2) provide information to the medical personnel treating the worker, including the identity of the pesticide involved and related safety data.

Display of Pesticide Safety Information — If workers or handlers are at an agricultural workplace where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer or manager is required to display certain pesticide safety information, in a format that workers can understand and at a location easily accessible to them. Among other items, the prescribed information must include (1) recommended clothing, bathing and laundering practices to minimize pesticide exposure, (2) decontamination procedures in case of accidental exposure, and (3) emergency medical contact information.

Display of Pesticide Application and Hazard Information — If workers or handlers are at an agricultural workplace where a pesticide product has been used or a restricted-entry interval has been in effect within the last 30 days, the farm employer is required to display prescribed information related to each pesticide product used, and to make the information accessible to workers and handlers during normal work hours. Among other things, the information must include (1) a copy of the product's safety data sheet, (2) the name, EPA registration number and active ingredients of the product, (3) the location and

description of the area treated, (4) the dates and times the application started and ended, and (5) the duration of the restricted-entry interval specified on the product label.

The pesticide application and hazard information must be displayed no later than 24 hours after the end of the application. It must remain displayed until at least 30 days after the end of the last restricted-entry interval, or until workers or handlers are no longer at the farm establishment.

Prohibited Acts — It is unlawful for employers of agricultural workers and employers of pesticide handlers to retaliate against a worker for attempting to comply with these provisions, or to prevent or discourage a worker from complying or attempting to comply.

Agricultural Worker Protection Requirements —

Pesticide Safety Training — In general, before any worker enters an area where a pesticide has been applied or a restricted-entry period has been in effect within the last 30 days, the employer must assure that the worker has received prescribed training within the last 12 months. The training must be presented by a qualified trainer and in a manner the worker can understand. Among other topics, the information presented must include (1) where and in what form pesticides may be encountered during work activities, (2) the hazards of exposure, (3) the different ways pesticides can enter the body, (4) signs and symptoms of common types of pesticide poisoning, (5) emergency first aid for pesticide injuries or poisoning, (6) routine and emergency decontamination procedures, (7) how to obtain emergency medical care, (8) the hazards from pesticide residues on clothing, (9) warnings about taking pesticides or pesticide containers home, and (10) the responsibility of agricultural employers for providing the information and protections outlined above.

Beginning January 1, 2018, the training must also include instruction regarding use of protective clothing and equipment, bathing and laundering procedures, and other practices that help reduce the risk of pesticide exposures and illnesses.

Entry to Treated Areas — After a pesticide application to an outdoor agricultural area, the farm owner or manager may not allow or order anyone other than an appropriately trained and equipped pesticide handler to enter or remain in the treated area. After a pesticide treatment, workers generally are not allowed to re-enter the area before the restricted-entry interval specified on the pesticide label has expired and all treated area warning signs have been removed or covered.

Notice of Applications — Farm employers must notify workers of upcoming pesticide applications. In the case of a pesticide whose label requires both posted notification at the site of the treatment and oral notification of the workers, the employer must:

- (1) Post signs of prescribed size that include the signal words "Danger," "Pesticides," and "Keep Out," in English and a non-English language read by the largest group of non-English-reading workers. The signs must be posted no sooner than 24 hours before the scheduled pesticide application, remain posted throughout the application and any restricted-entry period, and be removed within 3 days after the application or any restricted-entry period ends.
- (2) Give workers oral warning, in a manner they can understand. Workers on the property must receive the warning before the application begins; otherwise, the warning must be given at the start of the workers' first work period during which the application is taking place or the restricted-entry interval is in effect. The warning must include the location of the treated area, the time during which entry is restricted, and instructions not to enter the treated area until the restricted-entry period has expired.

Where the pesticide label does not require double notification, outdoor application of a pesticide with a restricted-entry interval of more than 48 hours generally requires posted notification only; in the case of products with restricted-entry intervals of 48 hours or less, the employer must notify workers of the application either by posting prescribed warning signs or giving prescribed oral notification.

Decontamination Supplies for Workers — For any agricultural worker who is performing an activity in an area where a pesticide was applied and who comes into contact with soil, water or plants treated with the product, the farm employer or manager is required to provide decontamination supplies for routine washing and emergency decontamination, including at least one gallon of water per worker and a supply of soap and single-use towels. These materials must be located outside the treated area and no more than 1/4 mile from where the workers are working, or at the point closest to the field where entry by vehicles is still possible.

Agricultural Pesticide Handler Protection Requirements — Workers who are employed to mix, load, transfer or apply pesticides, or who deal with pesticide application equipment or assist with pesticide applications (including acting as flaggers), are covered by protections very similar to those outlined above that apply to agricultural workers. These include, among other things, requirements for safety training, knowledge of labeling requirements associated with each pesticide product used, the prohibition against exposing workers and others to pesticides by contact, the provision and use of personal protective equipment, and the provision of decontamination and eye-flushing supplies.

ENFORCEMENT: Any state that has adopted adequate pesticide use laws and regulations, has adequate procedures for their enforcement, and agrees to keep required records and make required reports, may enter into an agreement with the federal government for the enforcement of pesticide use restrictions. Under such an agreement, the state has primary responsibility for enforcing the provisions described above.

All states except Wyoming currently have such authority. For agency information, see the first entry under "Pesticides and Agricultural Chemicals" for the state of interest.

In Wyoming and in any other state where the cooperating state agency fails to take appropriate action to assure compliance, the Act is enforced directly by the *Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-305-7090)*.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (HAZARD COMMUNICATION)

TERMS: With certain limitations, described in the special note below, agricultural employers whose workers may be exposed to hazardous chemicals on the job must establish a hazard communication program for their workers. The program must be in written form, made available to workers on request, and include the elements described in brief as follows.

Hazardous Chemical List — For each individual work area or for the farm or other establishment as a whole, employers must compile a list of the hazardous chemicals known to be present.

Labeling of Containers — In general, employers are required to ensure that each container of hazardous chemicals in the workplace (including pesticides) is properly labeled with identifying information and hazard warnings. Pesticide products that are subject to the labeling requirements of the U.S. Environmental Protection Agency do not require workplace labeling or hazard warnings, but agricultural employers must see that the existing product labels remain intact and readable.

Safety Data Sheets — For each pesticide or other hazardous chemical at the workplace, employers must obtain a safety data sheet from the product's manufacturer or distributor, and keep the data sheet at a location that is readily accessible to their employees. A safety data sheet is a written document that contains certain safety-related information, including, among other things, (1) the product name, (2) its hazard classification, (3) the chemical and common names of each ingredient, (4) precautions for safe handling and storage, (5) recommended exposure limits, and (6) symptoms of over-exposure and recommended treatment.

Employee Information — Employers are legally responsible for informing workers, at the time of their initial assignment and whenever a new hazard is introduced into their work area, of (1) the hazard communication requirements, (2) the operations in their work area where hazardous chemicals are present, and (3) the location of the hazardous chemical list and safety data sheets described above.

Employee Training — Employers must provide related training to each new employee, and to each employee affected by a new hazardous chemical at the workplace. At a minimum, training must include (1) methods for detecting the presence of a hazardous chemical on the job, (2) the physical and health hazards of each hazardous substance the worker may be exposed to, (3) measures the worker can take to protect against those hazards, and (4) an explanation of labeling, the safety data sheets, and other aspects of the employer's hazard communication program.

ENFORCEMENT: Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742).

Under a written plan approved by OSHA, each of the following states is authorized to enforce its own standards covering hazard communication in agricultural workplaces, identical or very similar to those described above:

Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

In these states, OSHA generally does not play a part in enforcing the hazard communication provisions. For the name of the state agency responsible for compliance, see the hazard communication summary under the heading "*Pesticides and Agricultural Chemicals*" for the particular state of interest.

SPECIAL NOTE: In accordance with Congressional restrictions on the use of federal funds for administration of this law, OSHA is prohibited in most cases from conducting inspections or otherwise enforcing these standards on any farm which employs fewer than 11 workers in any year. However, agricultural employers who operate a temporary labor camp are subject to the law without regard to the number of workers employed.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (*ANHYDROUS AMMONIA*)

TERMS: Agricultural employers subject to the Occupational Safety and Health Act (*see special note below*) must comply with rules regulating the storage and handling of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer.

Construction of Ammonia Containers — Containers used for the transportation, storage or application of anhydrous ammonia, as well as the valves and fittings connected to such containers, must be built in accordance with specifications detailed in the rules. Containers and valves must be properly marked with certain identifying information.

On-Farm Ammonia Equipment — The regulations also require that farm vehicles used to transport ammonia in containers of 1,200 gallons or less be furnished with a full-face shield for the protection of each worker operating the equipment, and at least 5 gallons of clean water for use in case of accidental contamination of a worker. Ammonia tanks must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle pulling them. Similarly, containers of 250-gallon capacity or less that are mounted on farm equipment and used for the application of ammonia in the fields must be securely attached and fitted with a level gauge and certain prescribed valves.

ENFORCEMENT: Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210 (202-693-1999; toll-free 800-321-6742).

Under a written plan approved by OSHA, each of the following states is authorized to enforce its own provisions regulating storage and handling of anhydrous ammonia in agricultural workplaces, identical or very similar to those described above:

Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

In these states, OSHA generally does not play a part in enforcing the anhydrous ammonia provisions. For the name of the state agency responsible for compliance, see the anhydrous ammonia summary under the heading "*Pesticides and Agricultural Chemicals*" for the particular state of interest.

SPECIAL NOTE: In accordance with Congressional restrictions on the use of federal funds for administration of this law, OSHA is prohibited in most cases from conducting inspections or otherwise enforcing these standards on any farm which employs fewer than 11 workers in any year. However, agricultural employers who operate a temporary labor camp are subject to the law without regard to the number of workers employed.

TRANSPORTATION

● FEDERAL TRANSPORTATION LAWS (*MIGRANT WORKER MOTOR CARRIERS*)

TERMS: In general, anyone who transports 3 or more migrant farmworkers at a time to or from their employment on a trip of at least 75 miles and across state lines, in any motor vehicle other than a passenger car or station wagon, is required to comply with detailed federal safety standards, summarized in brief below.

These requirements do not apply to a migrant farmworker transporting only the worker or members of the worker's immediate family, or to transportation systems offering service to the general public.

Driver Qualifications — Individuals who drive vehicles used to transport farmworkers, as defined above, must meet certain physical qualifications, including eyesight and hearing standards, and must be certified periodically by a doctor as having passed a physical examination. Drivers must also meet age and experience requirements and have a valid driver's license for the type of vehicle to be driven.

Vehicle Operation — Drivers must obey state and local driving rules and observe special procedures related to vehicle equipment, safe loading, rest and meal stops, authorized types of vehicles, vehicle fueling, and other safety measures. No driver may drive, or be permitted or required to drive, for more than 10 hours (not counting rest and meal stops) in any period of 24 consecutive hours, unless the driver gets 8 consecutive hours of rest immediately following the 10-hour driving period.

Vehicle Standards — Vehicles used to transport migrant workers must be equipped with prescribed devices, parts and accessories, in accordance with specifications covering lighting devices, brakes, connecting devices, tires, the passenger compartment, and protection of passengers from the weather. The person in control of any vehicle used to transport workers is obligated to inspect and maintain the vehicle and its accessories, to assure its safe and proper operating condition.

ENFORCEMENT: *Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, D.C. 20590 (800-832-5660).* The migrant farmworker transportation regulations are also enforced by the state agencies responsible for motor vehicle and transportation safety.

● **MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (*MOTOR VEHICLE SAFETY*)**

TERMS: In general, any farm labor contractor, agricultural employer or agricultural association that uses a motor vehicle to transport a migrant or seasonal agricultural worker must comply with prescribed safety and insurance requirements, summarized below.

Exceptions — These provisions do not apply to (1) transportation of a worker on a tractor, combine, harvester or similar machinery while the worker is engaged in planting, cultivating or harvesting activities, (2) any individual worker carrying only immediate family members, or (3) carpooling arrangements made by the workers themselves, using one of the workers' own vehicles and not directed by an agricultural employer or association or participated in by a farm labor contractor.

Passenger Cars and Station Wagons — Passenger cars and station wagons used by a farm labor contractor, agricultural employer or agricultural association to transport workers must meet standards covering lights, brakes, tires, steering, horn, mirrors, windshields and windshield wipers, the fuel system, exhaust system, ventilation, safe loading, seats, handles and latches, and the passenger compartment. These same specifications also apply to vehicles other than passenger cars and station wagons, provided the distance traveled on any one trip does not exceed 75 miles. Pickup trucks transporting passengers only within the cab are treated as station wagons.

Other Vehicles on Trips Exceeding 75 Miles — When a migrant or seasonal farmworker is transported by a contractor, employer or association in a vehicle other than a passenger car or station wagon on any trip of more than 75 miles, the vehicle is subject to the U.S. Department of Transportation's migrant worker transportation safety standards (described in the previous entry), but without regard to the mileage and state-line limitations mentioned in those provisions. In brief, these standards include:

Driver Qualifications — Drivers must meet certain physical requirements, obtain a certificate of examination from a licensed medical doctor, meet specified age and experience requirements, possess a valid driver's license for the type of vehicle being used to transport workers, and meet other related standards.

Driver and Vehicle Compliance — The driver must comply with prescribed rules for passenger and cargo loading, driving, meal and rest stops, fueling and other operational functions. The vehicle must meet standards related to parts and accessories, seating capacity, passenger safety, and other equipment specifications.

Insurance — A farm labor contractor, agricultural employer or agricultural association may not transport migrant or seasonal farmworkers in any vehicle owned, controlled or operated by the contractor, employer or association, unless he or she has an insurance policy or bond covering injury to persons and damage to property which results from operation of the vehicle. The liability limit must be no less than \$100,000 for each seat in the vehicle, up to a maximum of \$5,000,000 for any one vehicle. In general, the person who owns or has control over the vehicle is responsible for providing the required insurance.

Likewise, when an employer of a migrant or seasonal farmworker provides workers' compensation insurance protecting against bodily injury or death while the worker is being transported, the employer must also obtain property damage insurance with minimum coverage of \$50,000 for loss or damage in any one accident.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Apart from any enforcement action by the Department, a worker who has been harmed as a result of a violation of this law may take legal action against the contractor, employer or other person responsible for the violation directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Any such act of retaliation should be reported to the Wage and Hour Division within 180 days after it occurs.

● **IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)**

TERMS: Both the job offer and the work contract required when a farming establishment applies for temporary foreign agricultural workers under the so-called "H-2A" program must contain certain minimum standards and guarantees, including requirements related to worker transportation.

Transportation to the Place of Employment — Each foreign or domestic worker hired under an H-2A work contract who completes 50 percent of the contract period is entitled to transportation and meal expenses between the worker's previous location and the place of employment. Transportation and meal costs must be advanced to the worker before the trip whenever it is common practice for non-users of foreign labor in the same occupation and the same area to do so.

Daily Transportation to the Worksite — During the course of the contract, the employer must provide transportation between the worker's living quarters and the worksite, without cost, but only to the extent that the worker is unable to return to his or her own home within the same day.

Return Transportation — Provided the worker completes the contract period, the employer is obligated to furnish or pay for the worker's transportation and daily living costs back to the place of origin or to the next place of employment, if such travel costs are not covered by the next employer.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* The Wage and Hour Division is responsible for enforcing the required work contract — including the obligation to provide employee transportation — between employers who use foreign workers under the H-2A program, and the foreign and U.S. workers recruited under the H-2A application. Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

WAGES AND HOURS

● FAIR LABOR STANDARDS ACT OF 1938

TERMS:

Minimum Wage — Farm operators and other agricultural employers who used more than 500 worker-days of agricultural labor during any calendar quarter in the previous year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December) are required to pay their workers no less than the federal minimum wage for every hour on the job. The minimum wage is currently \$7.25 an hour.

Exceptions — The federal minimum wage *does not apply* to either of the following:

- (1) Workers who are paid on a piece-rate basis, travel daily from their permanent place of residence to the worksite, and were employed in agriculture less than 13 weeks during the preceding year.
- (2) Hand-harvest pieceworkers under the age of 17 who are employed on the same farm as their parents and paid the same piece rate as adult workers on the same farm.

Non-Cash Compensation — Agricultural employers who are required to pay the federal minimum wage may generally count as part of the worker's wages the reasonable cost of providing the worker with food, lodging or other facilities, as long as the employer customarily provides such benefits to all other employees. "Reasonable cost" does not include a profit to the employer, and the value of such items may not exceed the actual cost to the employer of the food, lodging or other facilities provided to the worker.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

As an alternative to filing a claim with the Wage and Hour Division, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● IMMIGRATION AND NATIONALITY ACT (TEMPORARY AGRICULTURAL WORKERS)

TERMS:

Hourly Workers — Every employer who uses temporary foreign agricultural workers under the so-called "H-2A" program must pay each H-2A worker paid by the hour, and any hourly-paid U.S. worker performing substantially similar work, no less

than (1) the federal minimum wage, (2) the state minimum wage, (3) the prevailing hourly wage rate, or (4) the federally prescribed "adverse effect wage rate" for H-2A employment in the state, whichever of the four figures is highest.

The adverse effect wage rate is a special minimum wage updated each year by the U.S. Department of Labor and intended to assure that the use of temporary foreign workers does not lower wages for U.S. farmworkers. As computed for all states except Alaska, the following are the AEWRs established for calendar year 2017:

Alabama—\$10.62, Arizona—\$10.95, Arkansas—\$10.38, California—\$12.57, Colorado—\$11.00, Connecticut—\$12.38, Delaware—\$ 12.19, Florida—\$11.12, Georgia—\$10.62, Hawaii—\$13.14, Idaho—\$11.66, Illinois—\$13.01, Indiana—\$13.01, Iowa—\$13.12, Kansas—\$13.79, Kentucky—\$10.92, Louisiana—\$10.38, Maine—\$12.38, Maryland—\$12.19, Massachusetts—\$12.38, Michigan—\$12.75, Minnesota—\$12.75, Mississippi—\$10.38, Missouri—\$13.12, Montana—\$11.66, Nebraska—\$13.79, Nevada—\$11.00, New Hampshire—\$12.38, New Jersey—\$12.19, New Mexico—\$10.95, New York—\$12.38, North Carolina—\$11.27, North Dakota—\$13.79, Ohio—\$13.01, Oklahoma—\$11.59, Oregon—\$13.38, Pennsylvania—\$12.19, Rhode Island—\$12.38, South Carolina—\$10.62, South—Dakota \$13.79, Tennessee—\$10.92, Texas—\$11.59, Utah—\$11.00, Vermont—\$12.38, Virginia—\$11.27, Washington—\$13.38, West Virginia—\$10.92, Wisconsin—\$12.75, Wyoming—\$11.66.

Piece-Rate Workers — Workers who are paid on a piece-rate basis and whose earnings at the end of the pay period are below what they would have been had the workers been paid at the required hourly rate must be given supplemental pay at that time to make up the difference. In no case may an H-2A employer pay a piece rate for a given crop operation that is less than the prevailing piece rate in the local area for the same operation.

Guaranteed Paid Workdays — Except for workers who quit the job before the end of the contract period or are fired for good reason, each U.S. and foreign worker hired under an H-2A work contract is guaranteed employment for at least 3/4 of the workdays in all periods during which the contract is in effect. If work is not available for the minimum number of guaranteed days, and for the full number of hours of daily work time defined in the contract, the employer must pay the worker the amount that would have been earned had the individual actually worked the guaranteed number of defined workdays. In calculating the amount due under the guarantee for a worker paid by the hour, the employer must use the worker's regular hourly pay rate; in the case of a pieceworker, the guarantee is figured using the worker's average hourly piece-rate earnings or the adverse effect wage rate, whichever is higher.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* This agency is responsible for enforcing the required work contracts between certified H-2A employers and their foreign and U.S. workers performing services under those agreements. Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

● MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT (*PAYMENT OF WAGES*)

TERMS:

Paydays — Every farm labor contractor, agricultural employer and agricultural association that employs a migrant or seasonal worker must pay the wages owed to the worker when due, but in no case less often than every 2 weeks or twice a month.

Pay Statements — For each pay period, a contractor, employer or association that employs any such worker must provide the worker with an itemized written statement showing (1) the basis on which wages are paid, (2) the number of piecework units earned, if paid on a piecework basis, (3) the number of hours worked, (4) total earnings for the pay period, (5) the amount and purpose of each deduction from earnings, and (6) the net amount paid.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

Apart from any enforcement action by the Department, a worker who has been harmed as a result of a violation of this law may take legal action against the contractor, employer or other person responsible for the violation directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Any such act of retaliation should be reported to the Wage and Hour Division within 180 days after it occurs.

● IMMIGRATION AND NATIONALITY ACT (*TEMPORARY AGRICULTURAL WORKERS*)

TERMS:

Frequency of Wage Payments — Employers who use temporary foreign agricultural workers under the H-2A program must pay their foreign workers, as well as U.S. workers performing substantially similar work, at least twice a month, or more often if it is common practice in the local area of employment to do so. The wage payment schedule must appear in the H-2A contract.

Wage Deductions — H-2A employers are permitted to withhold from a worker's pay only those deductions that are required by law or are otherwise reasonable, as long as the non-required deductions are explained in the contract. An employer may deduct the cost of providing the worker's transportation and meals between the worker's previous location and the place of employment, but the full amount of the deduction must be refunded to the worker when the worker completes half of the contract period.

Hours and Earnings Statements — On or before each payday, the employer must provide each worker with written documentation showing (1) the worker's total earnings for the pay period, (2) the hourly wage or piece rate, (3) the hours of employment offered to the worker and the hours actually worked, (4) each deduction from the worker's pay and its purpose, and (5) the worker's daily piecework production if paid on a piecework basis.

ENFORCEMENT: *Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (202-693-0072).* This agency is responsible for enforcing the required work contracts between certified H-2A employers and their foreign and U.S. workers performing services under those agreements. Local offices of the Wage and Hour Division may be located on the agency's website, at www.dol.gov/whd/america2.htm.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has consulted with an attorney or legal services program, filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law. Reports of unlawful retaliation should be filed with the Wage and Hour Division.

● INTERNAL REVENUE CODE OF 1986 (*COLLECTION OF INCOME TAX AT THE SOURCE ON WAGES*)

TERMS: Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees.

On the other hand, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, must deduct and withhold federal income tax from that worker's wages.

On or before January 31 of the following year, an employer required to withhold federal income tax must provide each worker with a statement on Form W-2 showing, among other information, (a) the employer's name, address and identification number, (b) the worker's name, address and Social Security number, (c) the total amount of wages paid, and (d) the total amount deducted and withheld as tax.

ENFORCEMENT: *Internal Revenue Service, U.S. Department of the Treasury, Washington, D.C. 20224 (202-283-1710).* A worker who has reason to believe that federal income tax has been incorrectly withheld, or has not been properly paid or reported to the U.S. treasury, should contact a representative of the IRS. Local IRS offices may be located on the agency's website, at apps.irs.gov/app/officeLocator/index.jsp.

SPECIAL NOTE: Even when a farm employer is not required to deduct federal income tax from a worker's wages, the worker may have to file a federal tax return and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

STATE LAWS

Alabama

CIVIL RIGHTS

● ALABAMA AGE DISCRIMINATION IN EMPLOYMENT ACT

TERMS: It is unlawful for an employer who has 20 or more employees for each working day in each of 20 or more weeks this year or last to discriminate against a worker 40 years of age or older in hiring, pay or other terms or conditions of employment. This law also prohibits age discrimination against persons age 40 and over by employment agencies and labor organizations.

ENFORCEMENT: A person who has suffered age discrimination by an employer who is covered by this law may file a lawsuit in state court against the person or company responsible for the violation, using a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Farm operators and other agricultural establishments are required to pay state unemployment insurance taxes if they paid at least \$20,000 in cash agricultural wages in any 3-month period (calendar quarter) in the current or previous year, or employed at least 10 workers in agricultural labor in each of 20 different weeks this year or last. The state agency that administers the unemployment program credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. Benefits currently range from roughly \$44 to \$265 a week, depending on the worker's past earnings.

ENFORCEMENT: *Unemployment Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130 (866-234-5382).* Workers may apply for benefits online, at <https://labor.alabama.gov/uc/claims/>.

PESTICIDES AND AGRICULTURAL CHEMICALS

● ALABAMA PESTICIDE ACT

TERMS:

Licensing — No one may apply pesticides, for pay or profit, on someone else's land without obtaining a pesticide applicator's license from the state. Before such a license can be issued, the applicant must pass a written examination on the proper application of pesticides and the dangers involved and precautions to be taken in connection with their use. Applicants for a license must also post a bond or have insurance covering any damages caused by the applicator's use of pesticides.

Pesticide Operations — As a general rule, it is unlawful for anyone to apply pesticides from an aircraft or on the ground under conditions that would result in injury or damage to plants or animals outside the area targeted for treatment, or to apply pesticides contrary to instructions or restrictions on the product's label. Licensed applicators must keep all pesticides in a clean, well-ventilated, well-lighted area which can be locked to prevent unauthorized entry. With some exceptions, applicators are also required to keep a detailed record of each pesticide application.

ENFORCEMENT: *Pesticide Management Section, Alabama Department of Agriculture and Industries, Montgomery, Alabama 36107 (334-240-7242).*

WAGES AND HOURS

● GENERAL PROPERTY LAWS (*AGRICULTURAL LABORERS' LIENS*)

TERMS: Whenever a farmworker has performed services on a crop and has not been paid in full for the work performed, the worker has a legal claim on the crop involved until the farm operator pays the balance of the worker's earnings. The farmworker's claim, or lien, takes priority over all other such claims, except for a lien by the landowner for unpaid rent and advances, and any lien for supplies used to produce the crop.

ENFORCEMENT: To enforce an agricultural laborer's lien, the worker must take legal action against the farm operator, through a private attorney or a public legal services program.

● ALABAMA INCOME TAX LAWS

TERMS: Like most other employers in Alabama, agricultural employers are required to withhold state income tax from their workers' wages and report the wages and taxes to the state.

No later than January 31 of the following year or 30 days after the employment ends, employers must provide each worker with a statement showing (1) the total amount of wages paid during the year, (2) the amount of state income tax withheld, and (3) the employer's name, address and tax ID number.

ENFORCEMENT: *Individual and Corporate Tax Division, Alabama Department of Revenue, Montgomery, Alabama 36132 (334-242-1000).*

Alaska

CHILD LABOR

● ALASKA CHILD LABOR LAWS

TERMS: Children under the age of 14 generally may not be employed at any time, and the employment of minors 15 through 17 years of age is restricted as follows:

Children Age 14 and 15 — Persons 14 and 15 years of age may be employed only outside school hours, only in non-hazardous occupations, and only with a work permit. Children under 16 may not work more than 6 days or 23 hours in one week, and the combined time in school and on the job may not exceed 9 hours in one day. Employment of persons under 16 is authorized only between the hours of 5:00 a.m. and 9:00 p.m.

Children Age 16 — In general, 16-year-olds must have a work permit and are not allowed to work during local school hours or for more than 6 days a week. Work in certain hazardous occupations is prohibited.

Children Age 17 — Except when granted a written exemption by the state, 17-year-olds may not be employed or allowed to work more than 6 days a week or in certain hazardous occupations.

Required Rest Periods — A person under age 18 who is scheduled to work for 6 hours straight or more is entitled to a break of at least 30 minutes during each work shift, and the break must occur after the first hour-and-a-half of work and before the beginning of the last hour. Similarly, a person under age 18 who works for 5 consecutive hours without a break is entitled to a break of at least 30 minutes before continuing work.

ENFORCEMENT: *Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842).*

● COMPULSORY EDUCATION LAW

TERMS: With few exceptions, every child between 7 and 16 years of age must attend public school during the school term. Every parent or other person having responsibility for or control of a child between the ages of 7 and 16 must see that the child is not absent without valid reason.

ENFORCEMENT: This law is enforced by the state district courts, in response to complaints filed by the local schools.

CIVIL RIGHTS

● STATE HUMAN RIGHTS LAW

TERMS: Employment discrimination on the basis of race, religion, color, national origin, physical or mental disability, sex, age, marital status, changes in marital status, pregnancy or parenthood, is unlawful. It is generally illegal for an employer to refuse to hire a worker, or to discriminate against a person in pay or other conditions of employment, on any such grounds.

Except where legitimate job qualifications are involved, the law also makes it unlawful to circulate job announcements or use employment applications which suggest any sort of limitation or discrimination as to sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color or national origin.

It is also unlawful to employ a female at a salary or wage rate less than that paid to a male employee for comparable work, or work in the same occupation, business or type of work in the same locality.

ENFORCEMENT: *Alaska State Commission for Human Rights, Anchorage, Alaska 99501 (800-478-4692)*. As an alternative to filing a claim or complaint with the state agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a person because the person has opposed a discriminatory practice or has filed a complaint or participated in a proceeding under this law.

HEALTH AND SAFETY

● STATE HEALTH, SAFETY AND HOUSING LAWS

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor department has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to all agricultural establishments.

ENFORCEMENT: *Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855)*.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

INSURANCE AND COMPENSATION

● ALASKA EMPLOYMENT SECURITY ACT

TERMS: In general, every farm employer who paid agricultural wages amounting to at least \$20,000 in any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more farmworkers for some part of a day in at least 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. Benefits currently range from \$56 to \$370, depending on past earnings. UI recipients may also qualify for an additional allowance for dependents.

ENFORCEMENT: *Employment and Training Services Division, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2712)*. Claims may be filed online, at my.alaska.gov.

● ALASKA WORKERS' COMPENSATION ACT

TERMS: Except for harvest workers and similar part-time employees, agricultural workers who are injured on the job are entitled to immediate medical treatment and related services at the employer's expense, as well as weekly cash payments for any disability that results from the injury. If an employment-related accident leads to a worker's death, benefits are generally paid to the worker's surviving dependents. Most employers meet their responsibility under this law by obtaining a prescribed workers' compensation insurance policy.

ENFORCEMENT: *Division of Workers' Compensation, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2790)*. To protect the right to workers' compensation benefits, a worker who is injured on the job should notify the employer as soon as possible after the accident.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● ALASKA EMPLOYMENT AGENCY LAW

TERMS: It is illegal for anyone to charge money for referring workers to employment, or providing workers to an employer, without first obtaining a permit from the state. A person who furnishes labor or employment may not issue false or misleading information concerning a job opportunity, refer a child to employment contrary to the child labor laws, or refer a worker to a workplace subject to a strike without first informing the worker that a strike is in progress.

ENFORCEMENT: *Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842)*.

PESTICIDES AND AGRICULTURAL CHEMICALS

● STATE ENVIRONMENTAL CONSERVATION LAWS (*PESTICIDE CONTROL*)

TERMS: No person may use a restricted pesticide unless the person is certified as a commercial or private applicator, or is under the direct supervision of such an applicator. To qualify for commercial certification, the applicant must attend an approved training program or pass a state-administered examination covering such topics as pesticide labeling, pesticide hazards and safety, pesticide application equipment and techniques, and pesticide-related laws and regulations. Applicants for certification as a private applicator must pass a similar test, or must successfully complete an approved training course.

No one may engage in the commercial or contract spraying or application of pesticides without having liability insurance, in an amount not less than \$500,000 per individual for injuries and not less than \$300,000 per incident for property damage.

These laws also require pesticide applicators to comply with detailed restrictions on how pesticides are applied, stored and disposed of, and to keep detailed records of each application of restricted-use pesticides.

ENFORCEMENT: *Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577)*.

● STATE ENVIRONMENTAL CONSERVATION LAWS (*AERIAL PESTICIDE APPLICATIONS*)

TERMS: It is unlawful for anyone to apply pesticides from an airplane or helicopter without first obtaining a permit from the state to do so. The aerial permit application form requires detailed information regarding the pesticide product to be used, the location and size of the target area, the method of application, the type and condition of the aircraft to be used, and related details.

ENFORCEMENT: *Pesticide Control Program, Division of Environmental Health, Department of Environmental Conservation, Wasilla, Alaska 99654 (800-478-2577)*.

● STATE HEALTH, SAFETY AND HOUSING LAWS (HAZARD COMMUNICATION)

TERMS: The state labor department has adopted rules requiring agricultural and other employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Except for the additional protections summarized below, Alaska's hazard communication rules are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and are applicable to all agricultural establishments.

Data Sheets — For each potentially hazardous "physical agent" present in a particular workplace, Alaska law requires the employer to have available an information sheet that, among other things, identifies the agent, describes the health hazards associated with it, outlines precautions or procedures for avoiding those hazards, and describes emergency or first aid procedures in the event of over-exposure. Among the physical agents most likely to pose a threat to agricultural workers are heat stress, cold stress and ultraviolet radiation.

Access to Data Sheets — Upon a worker's request, the employer must provide a copy of the physical agent data sheet for any such agent to which the worker may be exposed. Likewise, employers must post in the workplace a data sheet for each toxic or hazardous substance or physical agent to which an employee may be exposed there, or post a list of those substances or agents and identify a location where the data sheets can be accessed by employees during the work shift.

Training — At the time of their initial assignment, an employer must provide employees with information and training on the physical agents present in their work area.

ENFORCEMENT: *Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● STATE HEALTH, SAFETY AND HOUSING LAWS (ANHYDROUS AMMONIA)

TERMS: Under Alaska's health and safety laws, the state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Alaska's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural establishments.

ENFORCEMENT: *Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● STATE HEALTH, SAFETY AND HOUSING LAWS (EMPLOYEE SAFETY EDUCATION)

TERMS: When a worker requests it, farm employers must give their employees written information about each toxic or hazardous substance to which the worker may be exposed on the job. Before a worker is assigned to a job which could result in exposure, the employer must instruct the worker about (1) where and how the hazardous or toxic substances may be encountered in the workplace, (2) the necessary precautions the worker should take, and (3) the location, purpose and proper use of personal protective equipment. The employer must also post written information at the job site identifying the toxic substances with which employees may come into contact and advising them where product safety and health information may be inspected.

ENFORCEMENT: *Occupational Safety and Health Section, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4855).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

TRANSPORTATION

● STATE LABOR LAWS (*RETURN TRANSPORTATION*)

TERMS: An employer who agrees to provide transportation to a person from the place of hire to a point inside or outside the state for purposes of employment must provide the worker with return transportation to the place of hire when the job ends or the employment is terminated for good cause. Request for return transportation must be made within 45 days after termination of employment, and return transportation must be provided within 10 days after termination or whenever transportation is available, whichever occurs first.

If a worker quits for good cause, or is terminated for any cause during the agreed-upon period of employment, and if immediate transportation is not available upon termination, the worker is entitled to subsistence pay to cover temporary living expenses. Subsistence pay — currently \$100 per day — may not continue for longer than 10 days after termination, or until transportation becomes available, whichever occurs first.

ENFORCEMENT: *Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842).*

WAGES AND HOURS

● STATE WAGE CLAIM LAW

TERMS:

Pay Periods and Paydays — Unless an employer and a worker agree to monthly pay periods under an annual contract, the worker may choose between monthly or semi-monthly pay periods. In either case, at the time of hiring, an employer must give employees a written notice showing the day and place of payment and the rate of pay. Any change in these terms must be announced no later than on the payday before the change goes into effect.

Final Wages — When a worker is terminated by the employer, the worker's pay is due immediately and must be paid within 3 working days after termination, at the place where the worker is usually paid or at a location agreed on by the employee and the employer. When a worker resigns, payment is due on the next regularly scheduled payday that occurs at least 3 days after the employer received notice of the resignation.

Penalty for Late Payment — If an employer fails to pay wages due within the 3-day timeframe, the employer may be required to pay the worker a penalty, in the amount of the worker's regular compensation from the time of demand to the time of payment, or for 90 days, whichever is less.

ENFORCEMENT: *Wage and Hour Administration, Division of Labor Standards and Safety, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-4842).* A worker who has not received wages when due may submit a claim to the Wage and Hour Administration.

● STATE WAGE PAYMENT LAWS

TERMS: Workers performing labor in Alaska must be paid in lawful U.S. currency or by check. No wages or advances may be deposited in a bank without the voluntary authorization of the worker.

If an employer agrees with a worker (or a group of workers) to make payments to a health, medical, pension or other such fund for the benefit of the worker, it is generally unlawful for the employer to fail to make such payments.

ENFORCEMENT: The rights provided under this law may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

Arizona

CHILD LABOR

● ARIZONA CONSTITUTION; YOUTH EMPLOYMENT LAWS

TERMS:

Workers Under 14 Years of Age — Children under 14 are not permitted to work more than 8 hours a day, and may not be employed at all during local school hours. They are also prohibited from working in occupations considered hazardous to workers under 16, which among other activities include (1) working from a ladder more than 5 feet in height, (2) operating a tractor of more than 20 horsepower that is not equipped with a rollover protective structure and seatbelts, (3) operating a combine, corn picker, cotton picker or comparable power farm machinery, (4) riding on a tractor as a helper, or driving a bus, truck or automobile, and (5) handling hazardous agricultural chemicals.

Workers 14 and 15 Years of Age — In general, no one 14 or 15 years of age is allowed to work in any of the hazardous occupations mentioned above. When school is in session, workers age 14 and 15 may not be employed more than 3 hours on any school day or more than 18 hours a week; during periods when school is not in session, they may not be employed more than 8 hours a day or 40 hours a week. Furthermore, employment of 14- and 15-year-olds is not permitted between 9:30 p.m. and 6:00 a.m. on a night just before a school day, nor between 11:00 p.m. and 6:00 a.m. on any other night.

Workers 16 and 17 Years of Age — Currently, none of the highly hazardous occupations in which employment of 16- and 17-year-old workers is prohibited includes activities generally associated with crop production, and there are no limitations on hours of employment for workers in this age group.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, every person who has custody of a child between the ages of 6 and 16 must send the child to a public school for the full time school is in session in the school district in which the child is living. Among other exceptions, this requirement does not apply in cases where the child is over 14 years of age and is legally employed with the consent of his or her parent or guardian.

ENFORCEMENT: These provisions are enforced by the local school districts.

● ARIZONA WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

TERMS: In general, workers under the age of 18 who are employed at an age or in an occupation that violates the child labor laws at the time of a job-related injury are entitled to $1\frac{1}{2}$ times the amount of workers' compensation benefits normally payable for the injury.

ENFORCEMENT: *Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661).*

CIVIL RIGHTS

● ARIZONA CIVIL RIGHTS ACT

TERMS: In general, farmers and other agricultural employers that have 15 or more employees on each working day in 20 or more different weeks in the current or previous year are prohibited from firing or refusing to hire a worker because of the worker's race, color, religion, sex, age (over 40), national origin, disability, or genetic testing results. Similarly, race, color, religion, sex, age, national origin, disability, or genetic testing results may not be used by any such employer to determine a worker's wage rate or other forms of payment for services.

Notably, the law's prohibition against sexual harassment applies to employers with *one or more* employees in the current or preceding calendar year.

ENFORCEMENT: *Civil Rights Division, Office of the Attorney General, Phoenix, Arizona 85007 (877-491-5742).* A charge of employment discrimination may not be acted on unless it is submitted to the Division within 180 days after the violation occurred. Under certain conditions, a worker also has the right to sue an employer for discrimination directly, using a private attorney or a public legal services program.

● ARIZONA EQUAL WAGE LAW

TERMS: With only limited exceptions, no employer may pay any worker a wage less than the rate paid to workers of the opposite sex at the same workplace.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).* The equal wage law gives a worker 6 months after a violation occurs to file a complaint. Using legal assistance of their own choice, workers also have the right to sue an employer directly to collect unpaid wages resulting from unlawful sex discrimination.

SPECIAL NOTE: A worker claiming unpaid wages on account of sex discrimination should provide the employer with a written notice of the claim as soon as possible, since an employer is not legally responsible for wages due for more than 30 days before the worker provides such notice. Furthermore, the burden of proof is on the worker to prove that the claimed difference in pay is based on sex and not on other factors.

SPECIAL NOTE: Since the Arizona Civil Rights Act, described in the preceding entry, also outlaws wage discrimination because of sex but generally offers wider protection than the equal wage law, the State Labor Department usually refers all such complaints to the *Civil Rights Division, Office of the Attorney General, Phoenix, Arizona 85007 (877-491-5742).*

HEALTH AND SAFETY

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state industrial commission has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (FIELD SANITATION)

TERMS: Every farm operation where a crew of 5 or more workers is performing hand labor in one location on any given day must provide sanitation facilities to the workers, as described in brief below.

Drinking Water — Employers are required to provide no less than 2 gallons of clean drinking water, at a temperature of no more than 80 degrees F., for every worker at the job site. The water must be placed at a location that is readily accessible to the workers and must be dispensed in single-use drinking cups or by fountains.

Toilet and Handwashing Facilities — For workers who perform field work for a period of more than 3 hours during the day (including transportation time to and from the field), there must be at least one toilet and one handwashing facility for every 40 such workers. Toilets and washing equipment must be located close to each other, and within 1/4 mile of each employee's place of work in the field. If physical conditions prevent the employer from complying with the 1/4-mile distance limit, facilities must be located at the point nearest the workers where entry by vehicle is possible. Sanitary facilities must be kept clean and fully operational, and workers must be allowed reasonable opportunities during the workday to use them.

ENFORCEMENT: *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*SHORT-HANDLED HOES*)

TERMS: Except in a greenhouse or nursery, the use of a hoe with a handle less than 4 feet in length for weeding or thinning crops on farms is prohibited.

ENFORCEMENT: Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HOUSING

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, the state industrial commission has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Arizona's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● ARIZONA EMPLOYMENT SECURITY ACT

TERMS: Farm employers who employed 10 or more workers for all or part of a day in 20 or more different weeks in the current or previous year, or paid at least \$20,000 in cash wages for agricultural labor in any 3-month period (calendar quarter) this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Employer Engagement Administration, Department of Economic Security, Phoenix, Arizona 85012 (602-771-6606).* Unemployed workers who believe they are eligible for benefits may file a claim online at www.azui.com, or by visiting a local office of the Department of Economic Security.

● ARIZONA WORKERS' COMPENSATION LAW

TERMS: All agricultural employers must either protect their employees with a workers' compensation insurance policy (the cost of which may not be deducted from the workers' pay) or provide proof to the state that they have the financial ability to pay compensation directly. In either case, agricultural workers who are injured in a job-related accident or disabled by a disease caused by their employment are generally entitled to receive cash disability payments, medical and hospital services, medicines, and related benefits. If an occupational injury or disease should lead to a worker's death, compensation benefits are generally payable to the worker's surviving dependents.

ENFORCEMENT: *Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661).*

SPECIAL NOTE: Under the workers' compensation law, when a farm operator uses a labor contractor to obtain workers but the farm operator still has supervision and control over their work, the contractor and the workers in the contractor's crew are regarded as employees of the farm operator, who is therefore responsible for providing the insurance.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENTS LAW

TERMS: It is unlawful for any person, company or association to charge or collect a fee from anyone, in return for providing workers with job information or helping employers find workers, without first obtaining an employment agent's license from the state. In part, issuance of a license requires the applicant to pass a written examination regarding labor laws and regulations, to post a cash deposit or bond, and to pay a license fee. Among other prohibited acts, employment agents are forbidden from making false or misleading statements to workers regarding the nature, location or duration of any employment, the wages involved, or other conditions of the job.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).*

LABOR RELATIONS AND UNION REPRESENTATION

● ARIZONA AGRICULTURAL EMPLOYMENT RELATIONS ACT

TERMS:

Worker Rights — Among other rights granted by the Agricultural Employment Relations Act, agricultural workers in Arizona are free to form, join or assist labor organizations, to bargain with their employers over the terms and conditions of the job through representatives of their own choosing, or to bargain directly for themselves. Farmworkers also have the right to choose, without interference, not to involve themselves in such activities.

Bargaining Issues — Wages, hours, working conditions, workplace safety, sanitation and health, and grievance procedures are all permissible areas of negotiation between employers and farmworkers or their representatives.

Representation Elections — Under rules prescribed in the Act, an agricultural worker, a group of agricultural workers, or a labor organization acting in their behalf may petition the state for an election to determine if the majority of the workers in a particular employment unit wish to be represented by a union, or to determine if the workers no longer want to be represented by a currently recognized union. A farm operator or other agricultural employer may also petition for such an election. In any representation election, the workers must be offered an opportunity to vote "no union."

Prohibited Acts by Employers — Agricultural employers may not interfere with their workers' rights under this law, may not discourage or encourage membership in any labor organization, and may not refuse to negotiate with certified representatives of their employees. Labor unions are subject to similar restrictions.

ENFORCEMENT: *Agricultural Employment Relations Board, Phoenix, Arizona 85007 (602-542-3262).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

PESTICIDES AND AGRICULTURAL CHEMICALS

● ARIZONA PESTICIDE CONTROL LAW

TERMS:

Agricultural Permits — Commercial growers of agricultural crops in Arizona who apply pesticides or who hire anyone to apply pesticides on their crops, must obtain a valid permit issued by the state to do so.

Applicator Licensing — No one may apply pesticides for hire without being licensed by the state. Among other conditions, issuance of a license requires successful completion of an examination on the laws and rules relating to the use of pesticides, pesticide safety, adjustment of equipment, and actual use of application equipment. Pesticide application businesses must have prescribed insurance.

Applicator Certification — Apart from testing and insurance requirements, every applicator for hire must also be certified as a commercial applicator (or have someone employed who is a certified commercial applicator), which involves an examination on such matters as pesticide labeling, pesticide safety, protective equipment and clothing, poisoning symptoms, and first aid. Likewise, agricultural producers who intend to apply restricted pesticides to their crops must pass a similar examination and meet other requirements for certification as private applicators.

Licensing of Equipment — Equipment used in the commercial application of pesticides must be licensed before it is used for that purpose. The license must be displayed in plain sight on the equipment and must be removed any time the license of the applicator in control of the equipment is suspended, revoked or not renewed.

Use Restrictions — No one may dump, store or leave unattended any pesticide or pesticide container, at any place or under any condition, where it presents a hazard to persons, animals or property. Likewise, it is illegal for anyone to use or apply a pesticide contrary to instructions and warnings on the product's label. Growers are generally forbidden to allow any worker not wearing protective clothing required by a pesticide label, to enter any field treated with the product until the safe re-entry period prescribed for the product has passed. Before applying pesticides, growers must ensure that all persons and livestock under their supervision or control have been removed from the area to be treated.

ENFORCEMENT: *Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578).*

No sooner than 60 days after first filing a complaint with the Department of Agriculture, anyone who is negatively affected by a violation of the pesticide control law may file a lawsuit against the violator in civil court, using a private attorney or a public legal service program.

● ARIZONA PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

TERMS:

Aerial Applicator Licensing — No person may operate an aircraft for the purpose of applying pesticides to crops unless the person has a valid license for that purpose issued by the state. To qualify for such a license, the applicant must pass an examination testing knowledge and understanding of pesticide use and safety, safe flight and application procedures, pesticide laws and regulations, and other subjects. Aerial applicators must also have a valid commercial pilot's certificate issued by the Federal Aviation Administration.

Aerial Equipment Licensing — Like other pesticide application equipment, any aircraft used to apply pesticides for hire must have a valid state equipment license, as well as a certificate issued by the Federal Aviation Administration.

Application Restrictions — Certain designated highly toxic pesticide products may not be applied from the air within prescribed distances from schools, daycare centers, health care institutions and residences. Similarly, within designated urban areas that border on farmlands and have a history of problems or complaints concerning aerial pesticide applications, applicators must notify the state agency at least 24 hours prior to applying certain chemical compounds from the air.

ENFORCEMENT: *Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578).*

No sooner than 60 days after first filing a complaint with the Department of Agriculture, anyone who is negatively affected by a violation of the pesticide control law may file a lawsuit against the violator in civil court, using a private attorney or a public legal service program.

● STATE AGRICULTURAL SAFETY LAW

TERMS: In addition to enforcing the worker protection standards prescribed by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*), the state agriculture department has adopted additional rules regulating the safety and health of workers exposed to pesticides.

Pesticide Safety Information — Farm operators are required to provide their field workers with certain safety information before the workers enter a field where pesticides have been applied or a restricted-entry interval has been in effect within the last 30 days. The information must include the identity of the pesticides involved, as well as how workers may prevent exposure by (1) following directions or signs, (2) washing hands, (3) using protective clothing, (4) bathing after work, (5) washing work clothes, and (6) following emergency procedures in the event of spills or other over-exposure.

Pesticide Safety Training — Farm employers must provide safety training to each worker who enters a pesticide-treated area. Instruction must be provided in a language easily understood by the worker and must cover (1) pesticide hazards and effects, (2) common symptoms of pesticide poisoning, (3) emergency first aid for pesticide injuries or poisoning, and (4) the requirements related to pesticide application and entry restrictions and posting of warnings. An official training verification card must be issued to each worker who completes the training.

Notifications — A farm operator that utilizes the services of a farm labor contractor must notify the contractor of the restrictions on entering a pesticide-treated area, if the area is within 1/4 mile of where workers will be working and the treated area is not posted as required or allowed under federal regulations. The contractor, in turn, is required to notify the workers regarding the identity of the pesticide product used, the date and time the product was or will be applied, and the product's restricted-entry interval.

ENFORCEMENT: *Environmental Services Division, Arizona Department of Agriculture, Phoenix, Arizona 85007 (602-542-3578).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational safety and health law, the state industrial commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● ARIZONA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

TERMS: Under Arizona's occupational safety and health law, the state industrial commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Arizona's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Division of Occupational Safety and Health (ADOSH), Industrial Commission of Arizona, Phoenix, Arizona 85005 (855-268-5251).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

TRANSPORTATION

● STATE LABOR LAWS (AGRICULTURAL OPERATIONS)

TERMS: In general, a person transporting agricultural crops or farm supplies may not drive more than 16 hours straight, and must remain off-duty for at least 8 consecutive hours before starting another shift. Likewise, no such driver may drive more than 112 hours in any consecutive 7-day period.

Exception — During a period of not more than 28 consecutive days (or two periods totaling 28 days in a calendar year), a driver transporting "special situation" farm products from the field to cooling facilities may drive for not more than 12 hours during any 16-hour workday.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).*

WAGES AND HOURS

● ARIZONA MINIMUM WAGE LAW

TERMS: Most employers in Arizona are required to pay no less than the state minimum wage for every hour of employment. The minimum wage is scheduled to increase in four steps:

Effective January 1, 2017: \$10.00 per hour

Effective January 1, 2018: \$10.50 per hour

Effective January 1, 2019: \$11.00 per hour

Effective January 1, 2020: \$12.00 per hour

On January 1 each year beginning in 2021, the existing minimum wage will be adjusted to account for inflation.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).*

● WAGE PAYMENT LAWS

TERMS:

Paydays — Every employer must designate at least two days per month, not more than 16 days apart, as fixed paydays.

Wage Payments — All wages due an employee on each regular payday must be paid on that day, in lawful U.S. currency or by negotiable check. Wages may be paid by direct deposit to an insured banking institution, but only with the worker's voluntary prior written consent, and in such cases the worker must receive a statement of earnings and withholding.

Withholding — No employer may withhold any portion of a worker's wages unless the employer is authorized to do so by federal or state law, the employer has the worker's written authorization to do so, or there is a genuine dispute as to the amount of wages due.

Termination — When an worker is discharged from employment, final wages due must be paid within 7 working days or the end of the next regular pay period, whichever is sooner. When a worker quits the job, final wages due must be paid no later than the next regular payday for the pay period during which the worker quits. If requested by the worker, final wages may be paid by mail.

ENFORCEMENT: *State Labor Department, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4515).* The Department is authorized to accept any wage claim involving up to \$2,500, but only if the claim is filed within one year after the wages were originally due. The wage claim form may be downloaded from the agency's website, at <http://test-az-ica.pantheonsite.io/forms/labor3303>.

As an alternative to filing a claim with the state agency, or if the claim amounts to more than \$2,500, the law gives the worker the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● ARIZONA PROPERTY LAWS (*FARM SERVICES LIENS*)

TERMS: A worker who performs labor in connection with the planting of an agricultural crop, and who is not paid in full for such services, is entitled to a share of the value of the crop equal to the amount of the unpaid wages. To enforce this right, or lien, the worker must first file a claim with the county recorder for the county in which the farm is located within 10 days after the work is performed. Within 6 months after the claim is filed, the worker must then file suit against the farm operator or landowner.

ENFORCEMENT: As noted, any worker who wishes to collect unpaid wages under these provisions must take legal action in civil court, using a private attorney or a public legal services program.

● ARIZONA INCOME TAX ACT OF 1978

TERMS: Except for non-seasonal, full-time employees and farmworkers involved in the operation of machinery, wages paid for agricultural services are not subject to withholding of state income tax.

ENFORCEMENT: *Arizona Department of Revenue, Phoenix, Arizona 85007 (602-542-5551; toll-free 800-352-4090).*

SPECIAL NOTE: Even though agricultural employers are generally not required to withhold state income taxes from a farmworker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Arkansas

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Children Under Age 14 — In general, no one under 14 years of age may be employed or permitted to work in agriculture or any other industry at any time.

Children Age 14 and 15 — No child age 14 or 15 is allowed to work for more than 6 days or 48 hours in any week, or for more than 8 hours in any day. Employment of 14- and 15-year-olds is permitted only between the hours of 6:00 a.m. and 7:00 p.m. on any day preceding a school day, and between 6:00 a.m. and 9:00 p.m. before a non-school day.

Children Age 16 and 17 — Minors 16 and 17 years of age are prohibited from working more than 6 days or 54 hours a week, or for more than 10 hours a day. On any day preceding a school day, 16- and 17-year-olds may be employed only between the hours of 6:00 a.m. and 11:00 p.m.; on nights preceding non-school days, they may generally work throughout the night, except in certain retail, food, entertainment and gambling establishments and places where alcohol is served.

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With few exceptions, every parent or other person living in Arkansas and having custody of a child 5 through 17 years of age must send the child to a public, private, parochial or home school.

ENFORCEMENT: These provisions are enforced by the local school districts.

● PUBLIC HEALTH AND WELFARE LAWS (*HAND HARVESTING BY CHILDREN*)

TERMS: A child 12 years of age or older may be employed to hand-harvest a short-season crop in Arkansas, provided that *all* six of the following conditions are met:

- (1) School is not in session.
- (2) The employer has permission from the child's parents.
- (3) The employer has obtained an employment certificate from the state labor department.
- (4) Any pesticide or other agricultural chemical used on the crop has been approved by the state health department as safe for the occupational exposure of 12- and 13-year-old hand harvesters.
- (5) Any restricted-entry period set for the chemical by the health department has expired before the child is allowed to work.
- (6) The chemical has been applied in compliance with the worker protection standards prescribed by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).* This agency is responsible for issuing youth employment certificates in Arkansas, and for enforcing other provisions in the state's child labor laws.

Testing, approving and establishing safe re-entry periods for pesticides used where 12- and 13-year-old children are to be employed in hand-harvest operations is the responsibility of the *Arkansas Department of Health, Little Rock, Arkansas 72205 (501-661-2000).*

CIVIL RIGHTS

● ARKANSAS CIVIL RIGHTS ACT OF 1993

TERMS: An employer who employs 9 or more workers in Arkansas in 20 or more weeks this year or last may be sued for damages if the employer does any of the following:

- (1) Deprives a person of his or her rights under the state constitution.
- (2) Intimidates, harasses or commits violence against a person because of racial, religious or ethnic hatred.
- (3) Commits employment discrimination against a person on the basis of race, religion, national origin, gender, or disability.

ENFORCEMENT: The Arkansas Civil Rights Act can be enforced only through civil action in state court, using a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● EQUAL PAY LAW

TERMS: All employers in the state must pay their employees equal compensation for equal services. Employers are prohibited from discriminating against any employee in wages or compensation solely on the basis of the employee's sex.

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

INSURANCE AND COMPENSATION

● DEPARTMENT OF WORKFORCE SERVICES LAW

TERMS: Farm operators and other agricultural employers who paid at least \$20,000 in cash wages for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more agricultural workers for some part of a day in 20 different weeks this year or last, are required to pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Administration, Arkansas Department of Workforce Services, Little Rock, Arkansas 72203 (501-682-3200).* Applications for unemployment compensation may be filed in person at any Department of Workforce Services office.

SPECIAL NOTE: Unemployment claims filed by workers who have recent earnings from certain seasonal industries are subject to special rules which may limit the workers' eligibility for benefits, as well as the amount and duration of benefits.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● ARKANSAS PRIVATE EMPLOYMENT AGENCY ACT OF 1975

TERMS: In general, it is against the law for anyone to charge money to provide job information to workers seeking employment, or to provide employers with information enabling them to obtain workers, without being licensed by the state as an employment agency. Employment agencies and agents must display their license at their primary place of business and must observe specified rules of operation and conduct. Among numerous other prohibited acts, employment agents may not circulate false or misleading notices, or make false or misleading statements, regarding the availability of jobs or terms of employment. Also, an employment agency or agent may not knowingly send a worker to any job where a strike, lockout or other labor dispute is in effect.

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● ARKANSAS PESTICIDE USE AND APPLICATION ACT

TERMS:

Applicator Licensing — It is unlawful for anyone to engage in the business of applying pesticides on someone else's property without having a valid commercial applicator's license issued by the state. Among other conditions, a commercial license may not be issued until the applicant passes an examination demonstrating knowledge of pesticides and pesticide application practices, and furnishes proof of liability insurance or other acceptable financial responsibility, in an amount not less than \$100,000.

Similarly, farm operators may not apply any restricted pesticide to their own crops without being licensed as private applicators and being certified as competent to use restricted pesticide products safely.

Individuals or firms that intend to apply pesticides from an aircraft must obtain an aerial applicator license from the state. The license application must include the pilot's FAA commercial or private pilot's certificate number.

Inspection and Licensing of Equipment — Equipment used in the commercial application of pesticides must be identified in the applicator's license application. At the time the application is approved, the licensing agency must issue a decal for each such piece of equipment, and the decal must be attached to the equipment before the equipment may be used.

Pesticide Storage and Disposal — No one may store or dispose of any pesticide or pesticide container in a way that would cause injury to humans, crops, livestock or wildlife.

ENFORCEMENT: *Pesticide Division, Arkansas State Plant Board, Little Rock, Arkansas 72205 (501-225-1598).* A person claiming damages from a pesticide application may file a written statement with the state agency within 45 days after the damages occurred.

WAGES AND HOURS

● MINIMUM WAGE ACT OF THE STATE OF ARKANSAS

TERMS:

Minimum Wage — With some important exceptions, farm employers in Arkansas are required to pay their employees no less than \$8.50 an hour for every hour of work.

Exceptions — The Minimum Wage Act *does not apply* to workers in any of the following categories:

- (1) Workers employed by a farming operation that did not use more than 500 worker-days of farm labor in any calendar quarter of the preceding year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, travel daily from their permanent home to the farm where they work, and were employed in agriculture less than 13 weeks during the preceding calendar year.
- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as workers over the age of 16 on the same farm.

Special Wage Certificate for Students — An employer who is otherwise required to pay the state minimum wage may apply to the state labor department for a certificate authorizing the employer to pay no less than 85 percent of the minimum wage to full-time students, for not more than 20 hours a week when school is in session and not more than 40 hours a week when school is not in session.

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).* Workers who believe that they have not received the wages they are entitled to under the state minimum wage law may file a claim with this agency, which has authority to investigate and take action against the employer to collect any unpaid wages.

Instead of filing a wage claim with the state labor department, a worker may take legal action against the employer directly, using a private attorney or a public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● MINIMUM WAGE ACT OF THE STATE OF ARKANSAS (HOURS AND OVERTIME)

TERMS: With certain major exceptions, farm employers may not employ a worker for more than 40 hours a week unless the worker receives overtime compensation at a rate not less than $1\frac{1}{2}$ times the worker's regular rate of pay.

Exceptions — This law *does not apply* to workers in any of the following categories:

- (1) Workers employed by a farming operation that did not use more than 500 worker-days of farm labor in any calendar quarter of the preceding year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).
- (2) Workers employed as hand-harvest laborers who are paid on a piecework basis, travel daily from their permanent home to the farm where they work, and were employed in agriculture less than 13 weeks during the preceding calendar year.

- (3) Migrant workers 16 years old or younger who are employed as hand-harvest laborers, paid on a piecework basis, work on the same farm as their parents, and are paid the same piecework wage as workers over the age of 16 on the same farm.

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).* Workers who believe that they have not received the wages they are entitled to under these provisions may file a claim with this agency, which has authority to investigate and take action against the employer to collect any unpaid wages.

Instead of filing a claim for unpaid wages with the state labor department, a worker may take legal action against the employer directly, using a private attorney or a public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE PAYMENT LAWS

TERMS: All corporations which do business in the state and employ laborers must pay their workers' wages twice a month. Wages may be paid only in lawful U.S. money, by check payable in lawful money, or by direct deposit into the worker's account.

Whenever an employer fires or lays off a worker, with or without cause, the unpaid balance of the worker's earnings is due immediately. If the worker has not received final pay within 7 days, as a penalty for non-payment the worker is entitled to continued pay at the same rate from the date of termination until paid, generally up to a maximum penalty of 60 days' wages.

It is illegal for an employer to force or attempt to force a worker to purchase goods or supplies as payment of wages.

ENFORCEMENT: *Labor Standards Division, Arkansas Department of Labor, Little Rock, Arkansas 72205 (501-682-4500).* The Department is authorized to investigate any wage claim amounting to \$2,000 or less. If a worker's claim is found valid and the worker lacks financial resources to recover wages from an employer who refuses to accept the Department's findings, the agency is authorized to take legal action against the employer on the worker's behalf.

● ARKANSAS INCOME TAX WITHHOLDING ACT OF 1965

TERMS: Farm employers who pay wages for agricultural services to 4 or more workers during the year are required to withhold state income tax from their workers' wages. They must also keep required records and provide the workers with an annual statement of wages paid and taxes withheld on or before January 31 the following year.

A farm employer who pays farm wages to fewer than 4 workers has the option to withhold state income tax from the workers' wages, but if they do, they are obligated to provide each worker with the required annual statement of wages and taxes.

ENFORCEMENT: *Office of Income Tax Administration, Arkansas Department of Finance and Administration, Little Rock, Arkansas 72201 (501-682-1130).*

SPECIAL NOTE: Even though some farm employers may not be required to deduct state income taxes from their workers' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

California

CHILD LABOR

● WAGE, HOUR, AND CHILD LABOR LAWS

TERMS:

Permits and Hours — Except for high-school graduates and those with a GED, all children under 18 years of age must have a work permit, issued by the local school district, to be lawfully employed. A work permit may be issued to children age 12 and over for agricultural employment under the following conditions:

Children Age 12 and 13 — Children 12 and 13 years old are permitted to work only on non-school days. At no time may such children work more than 8 hours a day or 40 hours a week. Work is permitted only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Children Age 14 and 15 — While school is in session, children 14 and 15 years of age who have completed 7th grade may work up to 3 hours on a school day (outside school hours only), and up to 8 hours on a non-school day, for a maximum of 18 hours a week. When school is not in session, 14- and 15-year-olds may work up to 8 hours per day and 40 hours per week. Such children may work only between the hours of 7:00 a.m. and 7:00 p.m. (until 9:00 p.m. from June 1 through Labor Day).

Children Age 16 and 17 — When school is in session, 16- and 17-year-olds who have completed 7th grade may work up to 4 hours a day before or after school, and up to 8 hours a day on non-school days and days before a non-school day, for a maximum of 48 hours a week. When school is not in session, 16- and 17-year-olds may work up to 8 hours a day and 48 hours a week. Work is limited to the hours of 5:00 a.m. to 10:00 p.m. (until 12:30 a.m. on any evening preceding a non-school day).

Hazardous Occupations —

Children Under 12 — Children under the age of 12 are not allowed to work, or go with their parent or guardian to work, in areas where there is moving equipment, unprotected chemicals, or any unprotected water hazard.

Children Under 16 — Children under 16 years of age are not permitted to work in any occupation that could endanger their life, health or morals. Among the farm-related job activities closed to workers under 16 is work around moving machinery, operating or servicing tractors and other heavy equipment, working from ladders at a height over 20 feet, working inside certain fruit and grain storage facilities, and handling or applying certain pesticides and other agricultural chemicals.

Children Age 16 and 17 — There are almost no agriculturally related occupations closed to persons 16 and 17 years of age.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).* Workers who need information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov. The child labor laws may also be enforced by city, county and school district attendance supervisors.

● **COMPULSORY EDUCATION LAW**

TERMS: With few exceptions, every person between the ages of 6 and 18 must attend a public school (or a private school which meets state standards) for the full length of the school day. Further, if a minor withdraws from school at age 16, he or she must be enrolled in a continuation education program. It is the responsibility of the parent, guardian or other person in control of a school-age child to see that the child attends if required by law.

ENFORCEMENT: These provisions are enforced by the local school districts and local peace officers.

● **WORKERS' COMPENSATION ACT (ILLEGAL EMPLOYMENT OF MINORS)**

TERMS: In general, workers under the age of 16 who are employed in farmwork in violation of the child labor laws at the time of a job-related injury are entitled to $1\frac{1}{2}$ times the amount of benefits normally payable under the Workers' Compensation Act, unless the employer relied on proof presented by the worker that the worker was over the age of 15 at the time of hiring.

ENFORCEMENT: *Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100).*

CIVIL RIGHTS

● **CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**

TERMS: With few exceptions, it is unlawful for any employer who regularly employs 5 or more workers to refuse to hire a job applicant, or to discriminate against a worker with respect to wages or other terms of employment, because of the worker's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, or military and veteran status.

It is also illegal, except under very limited circumstances, for any such employer to refuse to hire, or to fire or demote, any individual over the age of 40 on the basis of age.

These prohibitions also apply to employment agencies and labor organizations.

ENFORCEMENT: *California Department of Fair Employment and Housing, Elk Grove, California 95758 (916-478-7251).*

If the Department has not brought formal charges against the person accused in a worker's complaint within 150 days after the complaint is filed, the worker may take the case to court, using a private attorney or a public legal services program.

● WAGE AND HOUR LAWS (*EQUAL PAY PROVISION*)

TERMS: In general, it is unlawful for a farm operator or any other employer to pay any worker at a wage rate less than the rate paid to workers of the opposite sex at the same place of work, for a job requiring equal skill, effort and responsibility and performed under similar working conditions. Wage differences, however, that are based on seniority, merit, quantity or quality of production, or any other valid factor other than gender are generally not considered discriminatory.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).* Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov.

The law also gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

HEALTH AND SAFETY

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state agency has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to all agricultural operations in the state, regardless of the number of workers employed.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).*

● FOOD CROP SANITATION LAW

TERMS: In every food crop where 5 or more farmworkers are working in the field as a crew or group for a period of 2 or more hours, their employer is required to provide toilet and handwashing facilities. Each toilet unit must have at least 8 square feet of space, be equipped with a self-closing door that is lockable from the inside, and be furnished with toilet paper. Likewise, handwashing units must be supplied with clean wash water and with soap or other suitable cleansing agent.

In general, toilet and handwashing equipment must be stationed within a 5-minute walk of the field. Whenever physical conditions at the workplace prevent an employer from complying with this distance limitation, the facilities must be located at the point closest to the workers where entry by vehicles is possible.

ENFORCEMENT: These provisions are enforced primarily by local health officers and county agricultural commissioners.

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (*FIELD SANITATION*)

TERMS: Under the California Occupational Safety and Health Act, the state agency has adopted standards requiring agricultural employers to provide field workers with drinking water, toilets, and handwashing facilities at the place of employment.

Drinking Water — Farm employers must provide a sufficient supply of fresh, cool, sanitary drinking water to their workers performing hand-labor operations in the field. The water must be readily accessible, and workers must be allowed access to the water at all times. Water must be dispensed in single-use drinking cups or from fountains.

Toilet Facilities — At locations where there are 5 or more workers, employers must provide separate toilet facilities for each sex, at a ratio of one toilet for every 20 workers or fraction thereof; where there are fewer than 5 workers, separate toilets for each sex are not required.

All toilet units must be ventilated, have self-closing doors that can be locked from the inside, be screened to prevent entry of flies, be constructed to ensure privacy, and meet related sanitation requirements. Toilet paper must be provided in a suitable holder in each toilet unit.

Handwashing Facilities — For every 20 workers or fraction thereof, employers must provide one handwashing facility, equipped with an adequate supply of sanitary water, soap or other suitable cleansing agent, and single-use towels. A sign must be posted to indicate that the water is for handwashing only.

Location of Facilities — In general, toilet and handwashing equipment must be stationed within a 5-minute or 1/4-mile walk of the workplace, whichever is shorter. Whenever roads, terrain or other conditions prevent compliance with this distance limitation, such facilities should be located at the point closest to the workers where entry by vehicles is still possible. Toilet and handwashing facilities must be close to each other.

Exception to Location Requirement — Instead of providing the facilities on site, an employer may provide transportation to toilet and handwashing facilities if (1) the workers perform field work for a period of less than 2 hours, including time to and from work, and (2) there are fewer than 5 workers engaged in hand-labor operations at the site on that day.

Responsibility for Maintenance — The employer is responsible for servicing and maintaining these facilities. This responsibility includes, among others, (1) cleaning and refilling the drinking water containers, (2) keeping the toilet facilities clean, sanitary and operational, (3) providing toilet paper, and (4) properly disposing of the contents of any chemical toilets used.

Reasonable Use — The employer must notify each worker of the location of the water and sanitation facilities, and must allow each worker reasonable opportunities during the workday to use them.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).*

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (*HAND-HELD TOOLS*)

TERMS:

Short-Handled Hoes — The use of a hoe or any other hand tool less than 4 feet in length is prohibited in weeding, thinning and similar agricultural operations when the hoe or other tool is used in a stooped, kneeling or squatting position. Likewise, a hand tool 4 feet long or longer used for these same operations may not be used as a short-handled hand tool in a stooped, kneeling or squatting position.

Hand Weeding — Hand weeding, hand thinning, and hand hot-capping in a stooped, kneeling or squatting position is not allowed in most agricultural operations, unless there is no other reasonable, readily available way of performing the work.

Hand Weeding Requirements — In general, employers who require or allow workers to hand weed, hand thin, or hand hot-cap must provide them with an additional 5 minutes of rest time in the middle of each work period. The authorized rest period is figured at the rate of 15 minutes for every 4 hours of work or fraction thereof, which is counted as compensable work time and may not be deducted from wages.

Workers who do hand weeding, hand thinning, or hand hot-capping must be provided with gloves and knee pads, as well as training to help them avoid related injuries.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).*

HOUSING

● EMPLOYEE HOUSING ACT

TERMS: The Employee Housing Act requires the licensing and inspection of labor camps and other housing facilities provided to 5 or more workers by their employer, and certain rural housing accommodations used by 5 or more agricultural workers as a temporary or seasonal residence.

Licensing — No one may operate a labor camp without a valid permit issued by the state. A permit may be issued for from one to 5 years, depending on the type of facility.

Inspections — At least once each year, state or local enforcement officials must inspect all registered labor camps and any attached equipment and accommodations, to assure compliance with the detailed health and safety standards included in the state regulations. Among the factors considered in determining if a housing facility meets licensing standards are these:

- The building site and structures
- Sleeping areas and accommodations
- Kitchens and mess halls
- Fire equipment and procedures
- The plumbing system and sanitation facilities
- The water system
- Heating equipment
- The electrical system and fixtures

Tenants' Rights — No one who operates a labor camp consisting only of permanent units may increase rent, decrease services, evict, threaten not to renew occupancy, or otherwise retaliate against a tenant because of a complaint by the tenant concerning the housing facility or the exercise of any other right under the Act.

Complaints — Any person living in housing subject to this law may file a complaint with the state or local enforcement agency, provided the person also delivers a copy of the complaint to the employer at the same time.

ENFORCEMENT: *Employee Housing Program, Codes and Standards Division, California Department of Housing and Community Development, Sacramento, California 95833 (916-445-9471).*

Under certain conditions, the Department may authorize a city or county agency to enforce these provisions within the agency's local area.

If the state or local enforcement agency does not take legal action against an employer or housing operator within 21 days after a complaint regarding employee housing is filed, the worker may sue the employer or operator directly, using a private attorney or a public legal services program.

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the state occupational safety and health law, the administering agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. California's temporary labor camp standards are substantially similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).*

INSURANCE AND COMPENSATION

● CALIFORNIA UNEMPLOYMENT INSURANCE LAW

TERMS: Farm operators and other agricultural employers who paid more than \$100 in wages during any 3-month period (calendar quarter) this year or last are required to pay state unemployment insurance taxes on behalf of their workers.

A farmworker who (1) has earned a certain minimum amount of wages working for one or more of those employers, and (2) is out of work, registered for work, able to work, available for work, and actively seeking work, may qualify for weekly unemployment benefits. Benefits currently range from \$40 to \$450 a week, depending on the worker's past earnings.

ENFORCEMENT: *Employment Development Department, Sacramento, California 95814 (800-300-5616).* Applications for benefits may be filed online, at eapply4ui.edd.ca.gov, or by toll-free telephone, at 800-300-5616 in English or 800-326-8937 in Spanish.

● WORKERS' COMPENSATION ACT

TERMS: Whenever an agricultural worker is injured in a job-related accident, the employer is responsible for covering the cost of the worker's medical and hospital treatment and related services, and for the payment of weekly disability benefits in the event of disability due to the injury. Most employers meet this responsibility by purchasing workers' compensation insurance. Whenever an employment-related injury results in a worker's death, compensation benefits are generally payable to the worker's surviving dependents.

ENFORCEMENT: *Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100).* Any accident on the job should be reported to the employer as soon as possible, in order to protect the right to workers' compensation benefits.

● CALIFORNIA DISABILITY COMPENSATION LAW

TERMS: When working for a farm operator or any other employer who paid more than \$100 in wages during any 3-month period (calendar quarter) in the current or previous year, farmworkers are required to pay disability unemployment insurance taxes, which must be withheld from their wages by the employer and turned over to the state.

In general, a worker who is unemployed due to physical or mental illness or injury is eligible for weekly benefits if the worker (1) has been unemployed and disabled for a waiting period of 7 consecutive days, (2) has submitted to a required examination to determine disability, (3) has, not later than 49 days after the first day of unemployment and disability, filed a first claim and doctor's certification, and (4) has earned at least \$300 in wages during a certain one-year period preceding the payment of benefits. Disability benefits currently range from \$50 to \$1,173 a week, depending on recent earnings. A worker is not eligible for disability benefits for any day of unemployment and disability for which the worker has received or is entitled to receive unemployment compensation, workers' compensation or similar cash benefits.

ENFORCEMENT: *Employment Development Department, Sacramento, California 95814 (800-480-3287).* Workers who are unemployed and disabled may file a claim for disability benefits using SDI Online (www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 800-480-3287 in English, or 866-658-8846 in Spanish).

● CALIFORNIA DISABILITY COMPENSATION LAW (*PAID FAMILY LEAVE*)

TERMS: Family temporary disability insurance provides up to 6 weeks of cash benefits to workers who take time off work to care for a seriously ill child, spouse, parent, parent-in-law, grandparent, grandchild, sibling, or domestic partner, or to bond with a new child within one year of the birth or placement of the child in connection with foster care or adoption. The program is financed by the state disability insurance taxes withheld from most workers' wages, as described in the previous entry.

ENFORCEMENT: *Employment Development Department, Sacramento, California 95814 (877-238-4373).* Applications for paid family leave benefits may be filed online (www.edd.ca.gov/disability/SDI_Online.htm) or by mail (application forms available via 877-238-4373 in English, or 877-379-3819 in Spanish).

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CONTRACTOR LAW

TERMS:

Contractor Licensing — In general, it is illegal for a person to charge a fee to recruit, supply or hire workers to perform agricultural services for a farm operator, unless the person is licensed as a farm labor contractor by the state. Labor contractors must carry their license with them at all times and must show the license to each individual with whom they deal as a contractor.

Contractor Responsibilities — Among other legal responsibilities imposed on them by this law, farm labor contractors are required to comply with all contracts and agreements entered into in connection with their contracting activity, allow workers and growers to inspect a written statement showing the amount of compensation being received from each grower and the corresponding amount being paid to the workers, and post a notice at the worksite and on all vehicles used to transport workers showing the workers' pay rate.

Prohibited Acts — Labor contractors are prohibited from making any false or misleading statement, or issuing any false or misleading information, concerning the availability of employment or the terms and conditions of the job. Contractors are forbidden from sending or transporting any worker to any place where they know a strike or similar labor dispute exists, without notifying the worker first.

Transportation — Farm labor contractors and their employees who operate a bus or truck for the transportation of workers must be licensed in accordance with state laws governing farm labor vehicles (*see entries, California — Transportation*) and must obtain liability insurance covering any damages resulting from the vehicle's use. At the entrance to all vehicles used by a contractor to transport workers, there must be a sign or notice showing the contractor's name and contractor license number.

Wage Statements — At the time of each payment of wages (which must be not less often than once a week), a farm labor contractor must provide each worker with an itemized written statement showing each and every deduction made from the worker's earnings.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).* Workers who need information about these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, a list of which may be found online at www.dir.ca.gov/dlse/DistrictOffices.htm, or may email the Division at DLSE2@dir.ca.gov. The law also gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

LABOR RELATIONS AND UNION REPRESENTATION

● AGRICULTURAL LABOR RELATIONS ACT OF 1975

TERMS:

Worker Rights — Agricultural workers in California have the right to form, join and assist labor unions for the purpose of bargaining with their employers over the terms and conditions of employment. It is illegal for a farm operator or other agricultural employer to interfere with this right, to interfere with the formation or operation of any labor organization, or to discriminate against workers or job applicants because of their membership or involvement in a union.

Representation Elections — Under certain conditions, a farmworker or group of farmworkers, or any person or organization acting on their behalf, may file a petition with the state requesting an election to determine the workers' wishes regarding union representation. The state must arrange a secret-ballot election within 7 days of the filing of a valid petition, and the ballot must allow workers to choose between all qualified labor organizations claiming to represent the workers or to vote against being represented by a union at all. Once a labor organization is certified as the bargaining agent of a group of workers, it is against the law for the employer to refuse to negotiate in good faith with that organization, or to recognize or bargain with any non-certified representative of the workers.

Unfair Labor Practices — The Act authorizes the state to investigate charges of unfair labor practices, and to take to court any employer or union found to have committed a violation.

ENFORCEMENT: *Agricultural Labor Relations Board, Sacramento, California 95814 (800-449-3699).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

PESTICIDES AND AGRICULTURAL CHEMICALS

● STATE PEST CONTROL LAWS

TERMS:

Applicator Licensing — It is illegal for anyone to apply agricultural pesticides for hire without an agricultural pest control license issued by the state. Likewise, every such pest control business must have at least one person in a supervisory position who holds a qualified applicator license. Neither a pest control business license nor an applicator's license may be issued until the applicant passes examinations covering pesticide use laws and regulations and related safety precautions. Every pest control business must also be registered with the county agricultural commissioner.

Financial Responsibility — Agricultural pest control businesses are required to prove the ability to pay damages for any illness, injury or property damage resulting from their work. This requirement may be in the form of liability insurance covering bodily injury up to \$100,000 per person and \$300,000 per occurrence, and property damage up to \$100,000.

Application Restrictions — With few exceptions, restricted pesticides may be purchased and used only by or under the supervision of a certified private or commercial applicator. Furthermore, before any restricted pesticide may be used for agricultural purposes, the owner or operator of the land involved must obtain a special use permit from the county agricultural commissioner. Among many other requirements, each person who performs pest control operations must use equipment which is in good repair and safe to operate, apply pesticides only when weather conditions are suitable to assure safe and proper application, and exercise reasonable care to avoid contamination of humans, animals, property and the environment. A copy of the registered label for the product being used must be available at each treatment site.

Pesticide Storage and Disposal — Pesticides, pesticide containers, and equipment that has held pesticides may not be stored, emptied, disposed of or left unattended in any way or at any place where they could present a hazard to people, animals, food, feed, crops or property. In no case may a pesticide be placed or kept in any container commonly used for food, beverages or household products. Areas where pesticides are stored must be plainly posted with prescribed warning signs.

Prohibited Acts — Among other prohibited acts, it is illegal for pesticide users and applicators to operate in a faulty or careless manner, to fail to keep required records or make required reports, or to fail to comply fully with the state pest control laws and the associated regulations.

ENFORCEMENT: *California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100).* These provisions are also enforced by county agricultural commissioners, who are immediately responsible for investigating pesticide-related complaints and reports of injury or damage. Anyone who has suffered injury or damage from an application of pesticides should file a report with the agricultural commissioner in the county where the incident occurred, within 30 days from the time of injury or damage.

● STATE PEST CONTROL LAWS (*AIRCRAFT OPERATION REGULATION*)

TERMS: It is unlawful for anyone to apply pesticides by air unless the pilot flying the aircraft holds a valid pest control pilot's certificate issued by the state. Before an initial certificate is granted, the applicant must pass an examination to demonstrate the pilot's ability to legally and safely conduct pest control operations and the pilot's knowledge of the nature and effect of pest control materials. After a period of aerial pest control operations under the supervision of a journeyman pilot, the apprentice pilot may qualify to take the journeyman pilot exams.

Pesticide aircraft operators must also have a commercial pilot's certificate and a current medical certificate issued by the Federal Aviation Administration, and must be registered with the county agricultural commissioner in each county where they operate.

ENFORCEMENT: *California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100).* These provisions are also enforced by county agricultural commissioners.

● STATE PEST CONTROL LAWS (*WORKER SAFETY*)

TERMS:

Field Worker Safety — Agricultural employers must comply with the standards summarized below, among others, to protect the safety of field workers who may be exposed to pesticides through entry into areas treated with pesticides.

Hazard Communication — Whenever workers are working as field workers in a treated field, the employer must display state-provided safety information leaflets at the worksite or at a central gathering place. The employer must also keep pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their workers, employees of a labor contractor, or treating medical personnel upon request.

Application Information — Before workers are allowed to enter any field treated with a pesticide, the employer must display at a central location specific information about the treatment, including the specific location, the date and time of the application, the names of the pesticides involved, and a copy of the safety data sheets for the pesticides applied.

Field Work During Pesticide Applications — It is illegal to direct or allow any person to enter or remain in a treated area of a field during a pesticide application, other than those who are involved in the application and are wearing protective clothing or equipment.

Training — Every worker assigned to work in a treated field must have received pesticide safety training within the preceding 12 months before beginning to work in a treated field. The training must be conducted in a way the worker understands, and must include topics such as the hazards of pesticides, how exposure can happen, entry intervals, signs and symptoms of over-exposure, first aid, and employee rights.

Emergency Medical Care — Emergency medical care for workers who enter fields treated with pesticides must be planned for in advance. The employer must locate a facility where emergency care is available, and the workers or their supervisor must be informed of the name and location of a doctor or medical facility where such care is available. When there is reason to suspect that a worker has a pesticide illness or over-exposure, the employer must ensure that the worker is taken to a doctor immediately. Doctors and others treating an injured worker must be given information about the pesticides involved and how the worker was exposed.

Decontamination Facilities — Not more than 1/4 mile from where field workers are at work (or at the nearest point of access), the employer must provide water, soap and single-use towels for washing of hands and face, and for emergency eye flushing. Workers must be told where the decontamination site is before they enter a treated field.

Field Re-Entry After Pesticide Applications — Under most circumstances, workers are not allowed to enter any area treated with a pesticide until the farm operator has been notified that the application has been completed and the restricted-entry interval has expired.

Warning Signs — Employers must post warning signs around treated fields in many situations, including (1) whenever required by the pesticide product label, (2) whenever applications are made in an entirely or partially enclosed space, and (3) prior to outdoor applications with a restricted-entry interval greater than 48 hours. Warning signs must be in English and Spanish (or other language read by a majority of workers who do not read English), posted at entry points around the fields involved and along unfenced public roads. The signs must be of prescribed size and include the skull and crossbones symbol and the words "Danger" and "Keep Out." Warning signs must be posted no sooner than 24 hours before the application, may not be removed during the re-entry period, and must be removed no later than 3 days after the end of the re-entry period and before workers are allowed to re-enter the fields to perform crop maintenance or harvest operations.

Safety of Pesticide Handlers — Among many other detailed requirements, the provisions outlined below apply to workers who mix, load, apply or assist in applying pesticides. These workers must be at least 18 years old.

Hazard Communication — Before workers are allowed to handle pesticides, the employer must display at a central location at the workplace state-provided informational leaflets, must maintain pesticide use records and a safety data sheet for each pesticide listed in those records, and must furnish them to their employees.

Training — Employers of pesticide mixers, loaders, non-certified applicators and their assistants must provide safety training to each such worker. Training must cover a range of topics, including pesticide hazards, safety procedures, protective clothing and equipment, the common symptoms of pesticide poisoning, sources of emergency medical treatment, the purposes and requirements for medical supervision, pesticide label requirements, and related laws and regulations. Training must occur before any pesticide worker is allowed to handle pesticides, and at least once a year thereafter.

Medical Care and Supervision — Employers must make arrangements for medical care in the event of pesticide-related emergencies, as well as for medical supervision of workers exposed to certain highly toxic pesticides for long periods of time. Doctors and others treating injured workers must be given information about the pesticides involved and how the workers were exposed.

Restrictions for Persons Working Alone — An employee working alone during daylight hours mixing, loading or applying certain especially toxic pesticides is required to make radio, telephone or face-to-face contact with a responsible adult at least once every 2 hours (at least once every hour, if working at night).

Changing Facilities — At each site where workers mix or load certain types of pesticides, the employer must provide a pesticide-free area where workers can change clothes, store their change of clothes, and wash themselves. Clean towels, soap and sufficient water must be available for thorough washing.

Decontamination Facilities — Not more than 1/4 mile from where workers are handling pesticides, the employer must provide water, soap and single-use towels for routine washing of hands and face, and for emergency eye flushing and washing of the entire body.

Work Clothing and Safety Equipment — When required by product labeling, the employer must provide prescribed personal protective equipment — including safety glasses and gloves — for each mixer, loader, flagger or applicator of specified toxic pesticides.

ENFORCEMENT: *California Department of Pesticide Regulation, Sacramento, California 95814 (916-324-4100).*

● HAZARDOUS SUBSTANCES INFORMATION AND TRAINING ACT

TERMS: This law requires that employers (1) make available to their workers printed safety information on each toxic chemical and other hazardous substance present at the place of employment, (2) take affirmative steps to provide safety information, in written form or through training programs, for every worker who may be exposed to a hazardous substance on the job, and (3) inform workers of their right to such information or training.

When the hazardous substances involved are agricultural pesticides, employers who comply with the worker safety requirements under the state's pesticide laws, described in the previous summary, are regarded as having met their obligations under this law.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

TERMS: Under the authority of the state occupational safety and health law, the administering agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural operations in the state, regardless of the number of workers employed.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000).* Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*.

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

TERMS: Under California's occupational safety and health law, the state administering agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. California's ammonia safety regulations are substantially similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural operations in the state, regardless of the number of workers employed.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000)*. Workers who believe they are or have been exposed to a workplace hazard in violation of the Act may submit a complaint by contacting the nearest Cal/OSHA office, a list of which is accessible online at www.dir.ca.gov/dosh/complaint.htm.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Furthermore, workers may not be fired or laid off for refusing to work in a workplace or on a job where there is an apparent hazard that violates these provisions. The name of any person who submits a complaint regarding workplace safety must be kept confidential unless the person requests otherwise.

The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*.

● CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (REPORTING OF PESTICIDE POISONINGS)

TERMS: Any doctor who treats or attends to an injured worker must file a report of occupational injury or illness with the employer or the employer's insurance company. If treatment is for pesticide poisoning, or a condition suspected of being pesticide poisoning, the employer or the insurance company must file a copy of the doctor's report with the state industrial relations department within 5 days. The treating doctor must also forward the report to that agency.

ENFORCEMENT: *Division of Occupational Safety and Health (Cal/OSHA), California Department of Industrial Relations, Oakland, California 94612 (510-286-7000)*.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. The agency responsible for enforcing the anti-retaliation provision is the *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118)*.

TRANSPORTATION

● WORKER TRANSPORTATION LAWS

TERMS:

Inspection — Every motor vehicle used to transport 9 or more farmworkers (in addition to the driver) to or from a place of employment, must be inspected by the state at least once a year to assure that it conforms with state safety regulations. Among other requirements, each vehicle's brakes, tires and rims, exhaust system, electrical system, lighting, windows, mirrors, doors and seats must meet detailed standards, and the vehicle must have a fire extinguisher, first-aid kit and roadside warning devices. The rules also prescribe the design and maintenance of vehicle emergency exits.

Certificate — No one may drive any farm labor vehicle unless a state-issued certificate documenting inspection and compliance is displayed in the vehicle. Except to take the unloaded vehicle to a repair facility, or until the vehicle and its equipment have been made to conform to state standards, no one may drive a farm labor vehicle after notice by the state agency to the owner that the vehicle is unsafe or not equipped as required. A farm labor vehicle known to an owner, farm labor contractor or driver to be unsafe, or not equipped as required by law, may not be used to transport any passengers until it is properly repaired or equipped and certified as such by a competent mechanic.

ENFORCEMENT: *Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400)*. To report a farm labor vehicle violation, call the Highway Patrol toll-free at 1-800-TELL-CHP (1-800-835-5247).

● DRIVERS' LICENSE LAWS

TERMS:

Licenses and Certificates — No person may operate any vehicle intended for the transportation of 9 or more farmworkers to or from the job, unless the person has in his or her possession (1) a driver's license for the specific type of vehicle to be driven, and (2) when transporting one or more farmworker passengers, a farm labor vehicle driver's certificate issued by the state. Before such a certificate will be issued, applicants must present evidence that they have successfully completed a state-approved driver training course, pass a state-administered examination, have an acceptable driving record, and meet minimum medical standards.

Exceptions — In addition to vehicles used to transport fewer than 9 workers, the farm labor vehicle licensing provisions *do not apply* to any vehicle carrying only members of the immediate family of the owner or driver of the vehicle.

ENFORCEMENT: *Commercial Vehicle Section, California Highway Patrol, Sacramento, California 95811 (916-843-3400)*. This agency is responsible for testing and temporary certification of farm labor vehicles.

Issuance of drivers' licenses and final vehicle certificates is the responsibility of the *Licensing Operations Division, Department of Motor Vehicles, Sacramento, California 95818 (916-657-6721)*.

WAGES AND HOURS

● WAGE AND HOUR LAWS (*MINIMUM WAGE*)

TERMS:

Minimum Wage —

Employers with 25 Employees or Fewer — Workers employed by an establishment with no more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.00 per hour
 January 1, 2018—December 31, 2018: \$10.50 per hour
 January 1, 2019—December 31, 2019: \$11.00 per hour
 January 1, 2020—December 31, 2020: \$12.00 per hour
 January 1, 2021—December 31, 2021: \$13.00 per hour
 January 1, 2022—December 31, 2022: \$14.00 per hour
 January 1, 2023—December 31, 2023: \$15.00 per hour

Employers with 26 Employees or More — Workers employed by an establishment with more than 25 employees must be paid no less than the following during the indicated time period:

January 1, 2017—December 31, 2017: \$10.50 per hour
 January 1, 2018—December 31, 2018: \$11.00 per hour
 January 1, 2019—December 31, 2019: \$12.00 per hour
 January 1, 2020—December 31, 2020: \$13.00 per hour
 January 1, 2021—December 31, 2021: \$14.00 per hour
 January 1, 2022—December 31, 2023: \$15.00 per hour

Beginning in 2023, the state minimum wage will be adjusted on or before August 1 each year, to reflect increases in the cost of living. The adjusted minimum wage will become effective the following January 1.

Meals and Lodging — As long as there is a voluntary written agreement between the employer and the worker, agricultural employers may count against the minimum wage the cost of adequate, well-balanced meals and decent, sanitary housing that they provide to and that are actually received by their workers. However, the credit for each meal may not exceed \$2.45 for breakfast, \$3.35 for lunch, or \$4.50 for dinner, and the housing credit is limited to \$31.75 per week for a room occupied alone, \$26.20 a week for a shared room, and 2/3 of the ordinary rental value for an apartment. The maximum credit for an apartment is \$563.90 per month where a couple are both employed by the employer, and \$381.20 for all others.

Piece-Rate Workers — Workers who are paid on a piece-rate basis must be paid for rest periods and other non-productive time separate from their piece-rate compensation. The required pay statement must show the total number of hours of rest periods and other non-productive time, the pay rate for those hours, and the amount of pay for those hours. In general, the pay rate for rest periods cannot be less than (1) the average hourly rate determined by dividing the total amount of non-overtime pay for the workweek by the total hours worked not counting rest periods, or (2) the current minimum wage, whichever is higher.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).* Workers who require information concerning these provisions, or who wish to file a claim or complaint, should contact the nearest district office of the Division, or email DLSE2@dir.ca.gov. The law also gives workers the right to sue the employer in civil court to enforce the minimum wage provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● WAGE AND HOUR LAWS (HOURS AND OVERTIME)

TERMS:

Overtime in Planting, Cultivation, and Harvest Operations — In the planting, cultivation and harvest of agricultural crops, and in the preparation of cropland, no one 18 years of age or older (other than certain irrigators) may work more than 10 hours in any one day, or more than 6 days in any one workweek, unless the worker is paid $1\frac{1}{2}$ times his or her regular rate of pay for each hour of work after 10 in any one day and for the first 8 hours of work on the seventh day, and *2 times* the regular rate of pay for each hour of work after 8 on the seventh day.

These same overtime rules apply to workers who are 16 or 17 years old and are not required by law to attend school. The overtime provision *does not apply* to workers employed on 7 workdays in a particular week when the worker's total hours that week do not exceed 30 and the worker's hours on any one workday do not exceed 6.

Overtime in On-Farm Preparation of Crops for Market — In general, no worker 18 years old or over may work in on-farm packing operations for more than 40 hours in any workweek, unless the worker receives $1\frac{1}{2}$ times the regular rate of pay for all hours worked in excess of 40 that week. Workers are also entitled to time-and-a-half for up to 4 hours after the first 8 hours of work on any day, and for the first 8 hours of work on the seventh day of the workweek. Employers must pay *double time* for all hours in excess of 12 in any one day, and in excess of 8 on the seventh day.

Meal Periods — Except when a work period of 6 hours or less will complete the day's work, all farm employers must permit their employees to take a meal break of at least 30 minutes after each work period of not more than 5 hours. If the employer requires a worker to remain on duty during a meal period, the arrangement must be in writing and the meal period must be counted as paid work time.

Rest Periods — All farmworkers who are on the job for at least $3\frac{1}{2}$ hours on a given day are entitled to 10 minutes of rest for every 4 hours of work time that day. The rest period counts as paid work time.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612 (510-285-2118).*

The law also gives workers the right to sue the employer in civil court to enforce the overtime provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: The overtime protections for workers who plant, cultivate and harvest farm crops were expanded significantly by a law passed in September 2016. The new provisions are being phased in, according to the following schedule:

Farms That Employ More Than 25 Workers —

Beginning January 1, 2019 — Planting, cultivation and harvest workers may not be employed for more than $9\frac{1}{2}$ hours a day, or for more than 55 hours a week, unless they receive at least $1\frac{1}{2}$ times their regular rate of pay for the excess hours.

Beginning January 1, 2020 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least $1\frac{1}{2}$ times their regular rate of pay for the excess hours.

Beginning January 1, 2021 — Planting, cultivation and harvest workers may not be employed for more than $8\frac{1}{2}$ hours a day, or for more than 45 hours a week, unless they receive at least $1\frac{1}{2}$ times their regular rate of pay for the excess hours.

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least $1\frac{1}{2}$ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive *twice* their regular pay rate for all hours over 12.

Farms That Employ 25 Workers or Fewer —

Beginning January 1, 2022 — Planting, cultivation and harvest workers may not be employed for more than 9½ hours a day, or for more than 55 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2023 — Planting, cultivation and harvest workers may not be employed for more than 9 hours a day, or for more than 50 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2024 — Planting, cultivation and harvest workers may not be employed for more than 8½ hours a day, or for more than 45 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours.

Beginning January 1, 2025 — Planting, cultivation and harvest workers may not be employed for more than 8 hours a day, or for more than 40 hours a week, unless they receive at least 1½ times their regular rate of pay for the excess hours, nor for more than 12 hours in one day unless they receive *twice* their regular pay rate for all hours over 12.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● WORKING HOURS LAW

TERMS: Virtually all farmworkers are entitled to one day's rest from the job in a 7-day period, and employers may not force their workers to work more than 6 days in 7. Employees who work more than 5 hours straight also generally have the right to a meal period of at least 30 minutes.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612.*

● WAGE PAYMENT LAWS

TERMS:

Paydays and Pay Periods — Wages earned by an agricultural employee must be paid twice each calendar month, on paydays designated in advance by the employer. Work performed from the 1st through the 15th day of the month must be paid between the 16th and the 22nd of that month; work performed from the 16th through the last day of the month must be paid between the 1st and the 7th of the following month.

When agricultural workers are furnished room and board by the employer, wages are payable once each calendar month, on a designated regular payday. No two paydays may be more than 31 days apart, and payment must include all wages earned up to the regular payday.

Agricultural workers employed by a farm labor contractor or crew leader must receive their pay at least once a week, on a business day designated in advance by the contractor. Payment must include all wages earned up to and including the 4th day before such payday.

Final Wages — Whenever an employer fires or lays off a worker, final wages must generally be paid immediately, but workers who are seasonally employed in the curing, canning or drying of perishable fruits and vegetables and who are laid off must receive final pay within 72 hours. If an employee with no written contract for a definite period quits the job, the worker's wages are payable no later than 72 hours after resignation; workers who give at least 72 hours' prior notice of their intention to quit are entitled to final pay at the time of quitting.

Method of Payment — Farm employers must pay all wages in legal U.S. currency, or by check payable on demand in cash at full face value. Employers may not pay workers in scrip, coupons or any other medium redeemable in goods.

Pay Statements — Every farm employer must, at the time of each payment of wages or at least twice a month, provide each worker with an itemized written statement showing (1) total earnings, (2) total hours worked, if pay is by the hour, (3) all deductions from earnings, (4) net wages earned, (5) the dates of the period for which the worker is being paid, (6) the worker's name and Social Security number, and (7) the name and address of the employer.

ENFORCEMENT: *Division of Labor Standards Enforcement, California Department of Industrial Relations, Oakland, California 94612.* A worker who has not received regular or final pay in accordance with these provisions may file a claim — available online at www.dir.ca.gov/dlse/HowToFileWageClaim.htm — or may email the Division at DLSE2@dir.ca.gov.

The law also gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

● PERSONAL INCOME TAX AND WITHHOLDING TAX LAWS

TERMS: Unlike earnings in most other industries, wages paid for agricultural labor are not subject to withholding of state income tax.

ENFORCEMENT: *Tax Branch, Employment Development Department, Sacramento, California 95814 (888-745-3886).*

SPECIAL NOTE: Even though farm employers are not required to deduct state income taxes from their employees' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Colorado

CHILD LABOR

● COLORADO YOUTH EMPLOYMENT OPPORTUNITY ACT OF 1971

TERMS:

Minimum Age — With few exceptions, children under the age of 12 years may not be employed in agricultural work.

Hour Restrictions —

Children Age 12 and 13 — Children 12 and 13 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. After school hours, 12- and 13-year-olds are not permitted to work more than 6 hours, unless the next day is not a school day. Similarly, no such child may work between the hours of 9:30 p.m. and 5:00 a.m., except on nights preceding non-school days. Employment for more than 40 hours a week or more than 8 hours in a 24-hour period is prohibited.

Children Age 14 and 15 — Children 14 and 15 years of age may be employed in non-hazardous agricultural occupations, but only outside school hours or on non-school days. Except before non-school days, 14- and 15-year-olds may not work more than 6 hours in any one day, nor between the hours of 9:30 p.m. and 5:00 a.m. In seasonal employment in the cultivation or harvest of perishable products where wages are paid on a piecework basis, children 14 and 15 years old may work up to 12 hours in a 24-hour period and up to 30 hours in a 72-hour period, but such individuals may not work more than 8 hours a day for more than 10 days within any 30-day period; employment of 14- and 15-year-olds in any other situations is subject to a maximum workday of 8 hours in a 24-hour period and a maximum workweek of 40 hours.

Children Age 16 and 17 — Persons 16 and 17 years of age may work in non-hazardous, piecework-paid seasonal agricultural operations for up to 12 hours in any 24-hour time span, and for up to 30 hours in any 72-hour period. Employment in other non-hazardous occupations is limited to 40 hours a week, and 8 hours in any 24-hour period.

Hazardous Occupations — Among the only agriculturally related occupations determined hazardous to minors, and therefore closed to workers under the age of 18, is work from a ladder or other raised platform more than 20 feet above the ground.

ENFORCEMENT: *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441).*

● SCHOOL ATTENDANCE LAW OF 1963

TERMS: To the same extent as other parents, farmworkers with a child who is 6 to 16 years of age must see that the child attends a public school, or receives approved comparable instruction, for the full school year.

ENFORCEMENT: The School Attendance Law is enforced by the local school districts, through attendance officers employed for that purpose.

CIVIL RIGHTS

● CIVIL RIGHTS LAWS

TERMS: Among other unlawful employment practices, it is generally illegal for an employer to refuse to hire a job applicant, to fire a worker, or to discriminate in the payment of wages against any otherwise-qualified person because of disability, race, creed, color, sex, pregnancy, sexual orientation (including transgender status), religion, age (over 40), national origin, ancestry, or marriage to a co-worker. Employment agencies and labor organizations are prohibited from committing similar acts of discrimination.

ENFORCEMENT: *Colorado Civil Rights Division, Colorado Department of Regulatory Agencies, Denver, Colorado 80202 (303-894-2997; toll-free 800-262-4845).* Anyone who has been subjected to an act of illegal employment discrimination may file a complaint with the Civil Rights Division at any time within 6 months after the act took place.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

TERMS:

Drinking Water — Agricultural employers of field or packing shed workers who live in temporary labor housing must provide the workers with clean, sanitary drinking water at the worksite. The use of shared drinking cups is prohibited.

Toilet and Handwashing Facilities — Field and shed workers who live in temporary worker housing must be provided with toilets and handwashing equipment, within 1/4 mile from the farthest point of the worksite. There must be at least one toilet and one washing unit for every 25 workers of each sex; if fewer than 10 workers are employed at the site, one toilet and one washing facility may be shared by both sexes.

ENFORCEMENT: *Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).*

HOUSING

● DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT GENERAL PROVISIONS

TERMS: Any building, trailer, tent, vehicle or other structure used as temporary living quarters for one or more farmworkers must comply with sanitation and safety standards adopted by the board of health. Among other points taken into account in determining if a housing facility meets state standards are these:

- The building site
- Condition of the structures
- The water supply
- The waste disposal system
- Heating
- Lighting
- Household furnishings
- Cooking and eating facilities
- Toilet, bathing and laundry facilities
- Fire protection
- Trash and garbage disposal facilities
- Pest control procedures

ENFORCEMENT: *Division of Environmental Health and Sustainability, Colorado Department of Public Health and Environment, Denver, Colorado 80246 (303-692-3645).*

INSURANCE AND COMPENSATION

● COLORADO EMPLOYMENT SECURITY ACT

TERMS: Agricultural employers who paid cash wages of \$20,000 or more for farm labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 agricultural workers for some part of a day in at least 20 different weeks this year or last, are required to pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Division of Unemployment Insurance, Colorado Department of Labor and Employment, Denver, Colorado 80201 (303-318-9100).* Applications for unemployment compensation may be filed online, at coloradoui.gov, or by calling the Division's customer service number at 1-800-388-5515.

SPECIAL NOTE: Benefits based on any wage credits earned from employment in a designated seasonal industry generally may not be collected unless the worker is unemployed during the industry's normal work season.

● WORKERS' COMPENSATION ACT OF COLORADO

TERMS: Farm operators and other agricultural employers are required either to have workers' compensation insurance or to obtain a self-insurance permit from the state.

Under either arrangement, farmworkers who are injured in an accident on the job are entitled to payment of medical, hospital and related costs required for treatment. If the worker is disabled or dies as a result of the injury, the insurance carrier or employer is responsible for paying cash benefits to the worker or the worker's dependents to compensate for lost wages.

ENFORCEMENT: *Division of Workers' Compensation, Colorado Department of Labor and Employment, Denver, Colorado 80202 (888-390-7936).*

LABOR CONTRACTORS AND WORKER RECRUITMENT

● WAGE PAYMENT LAWS (*FIELD LABOR CONTRACTORS*)

TERMS:

Registration — No one may operate as a field labor contractor in Colorado without first obtaining a certificate of registration from the state. Among other conditions on issuance of a certificate, contractors must provide proof that they have met workers' compensation coverage requirements for their workers. Field labor contractors must carry the certificate of registration at all times and show the certificate to everyone with whom they deal while conducting contracting activities.

Disclosures to Workers — At the time of recruitment, a contractor must provide each migrant farmworker with a written statement, in understandable language, indicating the area of intended employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rate to be paid, and the amount the worker will be charged for the contractor's services.

Prohibited Acts — Among other prohibited activities, it is illegal for a labor contractor (1) to give false or misleading information to migrant workers concerning the terms, conditions or availability of agricultural employment, (2) to fail without good reason to perform agreements with farm operators or to comply with the terms of any working arrangements made with workers, or (3) to allow any required workers' compensation insurance to lapse or become inoperative.

ENFORCEMENT: *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR RELATIONS LAWS

TERMS: It is illegal for anyone to bring workers into Colorado for the purpose of employment, or to persuade workers to change from one place of employment to another within the state, by means of false or deceptive information, false advertising or false promises concerning the kind of work to be done, the amount or nature of compensation to be paid, the sanitary or other conditions of employment, or the existence or non-existence of a strike or other labor dispute.

ENFORCEMENT: Through a private attorney or public legal services program, a worker who has suffered damages as a result of a violation of these provisions may file suit in civil court against the party responsible.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE APPLICATORS' ACT

TERMS:

Licensing and Certification — In general, it is unlawful for anyone (other than a farm operator on his or her own farm, or the employee of such a person) to use hazardous agricultural pesticides without being licensed or certified by the state. To qualify for a license or certification, an applicant must pass a written general examination, as well as a written examination for the specific type of license or certification involved.

Insurance — Commercial pesticide applicators are also required to have liability insurance covering injuries and property damage resulting from the use or misuse of a pesticide product.

Prohibited Acts — Among other acts, it is illegal for a commercial pesticide applicator to store, use or supervise the use of a pesticide contrary to directions on the label, or in a fraudulent, faulty, unsafe or negligent manner. Disposal of empty pesticide containers or unused materials negligently or unsafely is similarly prohibited.

ENFORCEMENT: *Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056).*

● PESTICIDE APPLICATORS' ACT (AERIAL APPLICATORS)

TERMS: Commercial applicators are prohibited from applying pesticides from the air without a license permitting them to do so. Each person applying for such a license must present proof that the applicant, or at least one pilot employed by the applicant, is certified by the Federal Aviation Administration for aerial pesticide operations.

The license-holder is required to notify the state agency whenever there is no longer a certified pilot employed, and the license-holder must cease aerial pesticide operations until satisfactory proof of certification of a new pilot is provided to the state agency.

ENFORCEMENT: *Pesticides Programs Section, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-869-9056).*

● ANHYDROUS AMMONIA ACT

TERMS: Farm operators who use ammonia on the farm must comply with regulations adopted by the state agriculture department under the Anhydrous Ammonia Act.

Containers — All containers used for the transportation, storage or application of anhydrous ammonia, as well as the fittings, valves and other appurtenances connected to such containers, must be built in accordance with detailed specifications prescribed in the regulations, and containers and valves must be properly marked with certain identifying information.

On-Farm Equipment — Ammonia containers of 3,000-gallon capacity or less that are attached to farm vehicles for transportation to and from the fields must be safely mounted on the vehicle or trailer, and trailers must be securely attached to the vehicle drawing them. Similarly, all containers mounted on farm equipment and used for the application of ammonia to the soil must be securely attached and fitted with a level gauge and certain prescribed valves.

Safety Equipment and Training — At all places where anhydrous ammonia is handled or transported, there must be on hand at least one pair of tight-fitting goggles or a full-face shield, at least one pair of protective gloves, and a container of not less than 5 gallons of readily available clean water. Workers required to handle ammonia must be trained in safe operating practices and appropriate procedures in the event of emergencies.

ENFORCEMENT: *Inspection and Consumer Services Division, Colorado Department of Agriculture, Broomfield, Colorado 80021 (303-867-9213).*

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS: Farmworkers who work for a farm operator that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) must be paid no less than the state minimum wage, as follows:

Effective January 1, 2017: \$9.30 per hour

Effective January 1, 2018: \$10.20 per hour

Effective January 1, 2019: \$11.10 per hour

Effective January 1, 2020: \$12.00 per hour

Beginning in 2021, the existing minimum wage will be adjusted each year to reflect changes in the cost of living.

ENFORCEMENT: *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441).* A worker who is entitled to the state minimum wage and who has not been paid accordingly may file a complaint with the Division, which is required to investigate and take action to enforce payment if the charge is determined valid.

Under this law, a worker may also take legal action in civil court against an employer to collect unpaid minimum wages, using a private attorney or public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE PAYMENT LAWS

TERMS:

Method of Payment — Employers are prohibited from paying wages in any medium other than cash or direct deposit, although checks or similar forms of pay may be used as long as they can be exchanged for cash immediately for the full amount for which they are written.

Paydays and Pay Periods — Unless the employer and the worker agree to some other schedule, all earnings (other than final wages) generally must be paid no later than 10 days after the end of the regular pay period, which may not exceed one month or 30 days' duration, whichever is longer. When employment is terminated by the employer, the worker's final wages are due immediately; if the worker quits or resigns, final wages are payable on the next regular payday.

Pay Statements — At least once a month, or at the time of each payment of wages, every employer must provide each worker with an itemized written pay statement showing gross wages earned, all deductions from the worker's wages, the net wages earned, the beginning and ending dates of the pay period, the worker's name and Social Security number, and the name and address of the employer.

ENFORCEMENT: *Division of Labor Standards and Statistics, Colorado Department of Labor and Employment, Denver, Colorado 80202 (303-318-8441).* As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

● HARVESTERS' LIEN LAW

TERMS: Any person who harvests grain or other crops, by hand or by machine, has a legal right to a portion of the value of the crops involved in the event the farm operator or landowner fails or refuses to pay the laborer's wages.

No later than 10 days after the work is finished, a worker who has not been paid full wages for harvest labor performed for the owner of the crop must notify the owner via certified mail that a claim — known as a "lien" — will be filed within 20 days. Within those 20 days, the worker must submit a claim to the Secretary of State's office detailing the amount of unpaid wages, the crop or crops involved, the name of the farm owner, and related information. The lien must also be filed with the county clerk and recorder.

Using a private attorney or public legal service provider, the worker must then file suit in civil court to enforce the claim. The suit must commence within 3 months from the filing of the lien.

ENFORCEMENT: As noted above, these provisions are enforced in the civil courts.

● COLORADO INCOME TAX ACT OF 1987

TERMS: Like the earnings of most other employees, agricultural workers' wages are subject to withholding of state income tax. Employers must provide each worker with a statement showing the amount of tax deducted at the time of each payment of wages during the year, and on or before January 31 of the following year must furnish the worker with a statement showing the total compensation paid and the tax withheld the preceding year.

ENFORCEMENT: *Taxation Division, Colorado Department of Revenue, Denver, Colorado 80217 (303-238-7378).* Any worker who believes that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should promptly contact the Department.

Connecticut

CHILD LABOR

● AGRICULTURAL CHILD LABOR LAW

TERMS: During any calendar week in which a farm operator or other agricultural employer averages more than 15 workers, the following rules apply to the employment of children on that farm:

Age and Hours — Employment of anyone under 14 years of age on the farm is prohibited. A minor 14 or 15 years old may not work on the farm for more than 6 days or 48 hours that week, or for more than 8 hours in any one day.

Proof of Age — The employer must have a birth certificate or other proof of age on file for every worker under 16 who is employed.

Transportation — If the employer provides transportation to the farm or workplace that week, he or she must provide workers under 18 with return transportation to their home or pick-up point at the close of each workday.

Meal Periods — Minors are entitled to a meal period of no less than 30 minutes each day that week.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).*

● SCHOOL ATTENDANCE AND CHILD EMPLOYMENT LAW

TERMS: Each parent or other person having control of a child who is at least 5 years of age but not yet 18 must see that the child regularly attends a public day school during the hours and terms that the local public schools are in session, unless the parent or guardian can show that the child is receiving equivalent instruction elsewhere.

Employers are prohibited from employing any child under 14 during the hours when the school the child should be attending is in session.

ENFORCEMENT: These provisions are enforced by the local school boards, through attendance officers appointed for that purpose.

CIVIL RIGHTS

● STATE HUMAN RIGHTS LAWS

TERMS: With only limited exceptions, it is illegal for any employer with 3 or more employees to refuse to hire a job applicant, to fire a worker, or to discriminate against a person with respect to wages or the terms or conditions of employment, because of the person's race, color, religious creed, age, sex, sexual orientation, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability, or physical disability.

Likewise, job opportunities generally may not be advertised in such a way as to discriminate against potential applicants on any of the above-mentioned grounds.

Similar acts of employment discrimination by employment agencies and labor organizations are also forbidden.

ENFORCEMENT: *Commission on Human Rights and Opportunities, Hartford, Connecticut 06106 (860-541-3400).* Anyone who has suffered from an act of unlawful employment discrimination may file a complaint with the Commission, provided it is filed within 180 days after the act occurred.

● **WAGE AND HOUR LAWS (*WAGE DISCRIMINATION*)**

TERMS: No employer may discriminate in the amount of wages paid to an employee solely on the basis of sex. In general, any difference in pay based on sex is considered to be discrimination.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).* Workers who believe they have been subjected to sex discrimination in compensation may file a complaint with the Department, provided the complaint is filed within one year after the alleged violation occurred.

As an alternative to filing a claim with the state agency, a worker who has not been paid all the wages to which he or she is entitled because of illegal sex discrimination may collect the unpaid amount in a civil suit against the employer involved, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **STATE WHISTLEBLOWER LAW**

TERMS: It is illegal for an employer to fire, discipline or otherwise punish a worker because the worker reports a violation or suspected violation of any state or federal law to a public agency or authority. Likewise, retaliation against a worker for participating in an investigation, hearing or inquiry requested by a public agency or authority is also unlawful.

ENFORCEMENT: After first trying to resolve the matter informally, a worker who is fired or disciplined in any other way in violation of this provision may file a civil lawsuit against the employer involved, using a private attorney or public legal service provider. Court action must generally commence no later than 90 days after the violation occurred.

HEALTH AND SAFETY

● **PUBLIC HEALTH CODE (*SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS*)**

TERMS:

Water for Drinking and Handwashing — Farm employers in Connecticut are required to make sanitary drinking water readily available to their field and shed workers, in covered containers equipped with drinking fountains or with individual paper cups. No common drinking cups are allowed. Clean, safe water for handwashing purposes must also be available to field and shed workers.

Toilets — Portable or permanent toilets, readily accessible and in adequate numbers, must be provided for the use of agricultural workers. There must be separate, clearly marked facilities for men and women. Each unit must be equipped with a latching door and must be well lighted, ventilated and maintained. Toilet paper must be supplied by the employer.

First Aid — Agricultural employers are also required to keep first-aid kits in every shed where work is in progress. First-aid supplies must be easily accessible to the workers.

ENFORCEMENT: *Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293).*

HOUSING

● **EMPLOYEE PROTECTION LAWS (*LABOR HOUSING*)**

TERMS: Any person or company that maintains or controls any building used as housing for workers in its employ must, within 72 hours after the housing is occupied, notify the local health authority. Within 5 days after notification, the local health authority is required to inspect the property and may order corrective action, or forbid use of the housing altogether, if the housing endangers the health of the occupants.

ENFORCEMENT: *Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).*

SPECIAL NOTE: The Connecticut Department of Labor has indicated that it may not be able to enforce these provisions against private employers, since Connecticut does not have a federally approved job safety and health plan.

● PUBLIC HEALTH CODE (*SANITATION FOR AGRICULTURAL AND MIGRANT FARM WORKERS*)

TERMS: Although the state health laws do not require the licensing of migrant labor camps, the public health code prescribes minimum standards that camp owners and operators of such housing are required to maintain. Among many other factors considered during an inspection to determine if a housing facility meets state standards are these:

- The condition of the structures
- The water supply
- The sewage disposal system
- Toilet, bathing, and laundry facilities
- Cooking and eating facilities
- Sleeping accommodations
- Trash disposal facilities

ENFORCEMENT: *Environmental Health Section, Regulatory Services Branch, Department of Public Health, Hartford, Connecticut 06134 (860-509-7293).* Representatives of the Department may inspect any migrant labor housing facility in the state, either in response to a complaint or on its own initiative. The state agency may delegate its labor camp inspection authority to local health departments.

● AGRICULTURAL WORKER HOUSING LAW

TERMS: Agricultural employers who provide living quarters to their employees are responsible for assuring that the housing meets sanitation and safety standards adopted by the state labor commissioner under the agricultural worker housing law. The labor commissioner's farmworker housing standards are identical to those contained in the public health code, described in the preceding summary.

ENFORCEMENT: *Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).*

SPECIAL NOTE: The Connecticut Department of Labor has indicated that it may not be able to enforce these provisions against private employers, since Connecticut does not have a federally approved job safety and health plan.

● LANDLORD-TENANT LAWS

TERMS: When a farmworker is living in housing provided by a farmer or other agricultural employer, and the worker fails to move out when the employment ends or is terminated, the employer must give the worker at least 3 days' written notice to leave.

If the worker has not moved out within the time period specified in the notice, the employer may take legal action to evict the worker. At the required hearing, however, the court may take the worker's needs into account and grant up to 15 days' additional time before the eviction is carried out.

ENFORCEMENT: A farmworker who is faced with immediate removal from an employer-provided housing unit may seek the protection of these provisions by consulting a private attorney or a public legal services program.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Agricultural employers must pay state unemployment insurance taxes if they paid cash agricultural wages amounting to \$20,000 or more during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some part of a day in 20 different calendar weeks this year or last. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6000).* Claims for unemployment benefits can be filed online, at uiclaimsct.force.com/Customers.

● CONNECTICUT WORKERS' COMPENSATION ACT

TERMS: Farm operators, farm labor contractors, and other agricultural establishments that employ one or more workers are required to pay the cost of medical treatment of their workers who are injured on the job, or who are disabled by certain illnesses caused by their employment, and are obligated to pay cash benefits to such employees or their dependents to compensate for the loss in earnings resulting from the injury or illness.

To meet these obligations, employers must either have an approved workers' compensation insurance policy, or provide proof to the state of their financial ability to pay compensation claims from their own funds.

ENFORCEMENT: *Connecticut Workers' Compensation Commission, Hartford, Connecticut 06106 (860-493-1500).* A worker who is injured on the job should notify the employer, who must report the facts of the injury to the Chairman's office within one week. A written notice of a claim for compensation must be filed by the injured worker within one year from the date of the accident which caused the personal injury, or within 3 years from the onset of symptoms of the occupational disease.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY LAW

TERMS: It is unlawful for anyone in Connecticut to charge a fee to find work for a person seeking a job without first obtaining a license as an employment agency from the state labor department. Among the conditions for issuance or renewal of a license, the applicant must:

- (1) Post a bond in the amount of \$7,500 to cover any loss or damage caused by the licensee's failure to comply with these provisions.
- (2) Demonstrate sufficient knowledge of laws and regulations related to employment agencies and employment discrimination.
- (3) Comply with state-prescribed restrictions on the amount and timing of the fees charged.
- (4) Comply with state-imposed recordkeeping requirements.

It is also unlawful for anyone to charge an employer a fee to provide the employer with workers without first registering with the state labor department.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).* A worker adversely affected by an employment agency — whether licensed or not — may file a complaint with the Department, which is obligated to conduct a hearing on the complaint and take action to resolve it.

PESTICIDES AND AGRICULTURAL CHEMICALS

● CONNECTICUT PESTICIDE CONTROL ACT

TERMS:

Prohibited Acts — Among other illegal acts defined in the Pesticide Control Act, it is unlawful for anyone (1) to sell, receive or use any pesticide that is not registered with the state, (2) to use any registered pesticide contrary to state restrictions or to instructions and warnings on the product's label, or (3) to detach, tamper with or destroy any federally required pesticide labeling.

Registration of Pesticide Application Businesses — No one may operate a pesticide application business without first obtaining a certificate of registration from the state.

Certification of Applicators — No one may use a restricted pesticide without first obtaining a private or commercial applicator certificate, unless the use is under the direct supervision of a certified applicator. Before an applicator's certificate can be issued, each applicant must pass an examination demonstrating knowledge concerning the proper use of pesticides, the dangers involved, and the precautions to be taken in connection with their application.

Disposal of Pesticides and Pesticide Containers — It is illegal for anyone to dispose of a pesticide or pesticide container in such a manner as to endanger plant or animal life or the public health and safety. Pesticides may not be dumped into any public sewage disposal system.

ENFORCEMENT: *Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369).*

● CONNECTICUT PESTICIDE CONTROL ACT (*AERIAL APPLICATORS*)

TERMS:

Certification of Aerial Applicators — No one may apply any pesticide or fertilizer by aircraft without first obtaining a certificate from the state authorizing such operations. Each applicant must be qualified to fly an aircraft, must pass an examination demonstrating competence to apply pesticides safely and effectively, and must have prescribed amounts of liability insurance.

Aerial Application Permits — Before any pesticide or fertilizer may be applied to a crop from the air, the owner of the crop must obtain a permit from the state. A permit may not be granted until the target area and surrounding property have been inspected and the applicant produces proof that the material to be applied and the method of application will not harm public health, water, animal life or property.

Application Restrictions — No pesticide may be applied from the air to a field less than 10 acres in size, unless the field is part of a larger parcel of at least 10 acres. Before an aerial spray operation may be performed, a written release is generally required from any resident whose property is within 300 feet of the flight path of the airplane to be used, or within 200 feet in the case of application by helicopter.

ENFORCEMENT: *Pesticide Management Program, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, Hartford, Connecticut 06106 (860-424-3369).*

● TOXIC SUBSTANCE INFORMATION LAW

TERMS: Farm employers who use certain pesticides or other toxic substances identified by the U.S. Occupational Safety and Health Administration as "air contaminants" must post a sign, at a location plainly visible to their employees, informing the workers of their right to information from their employer regarding the toxic substances used by the employer in the workplace.

Generally during the first month on the job, any worker may request, and the employer must in such cases provide, the following information on each toxic substance used by the employer: (1) the name of the substance, (2) the location where workers may be exposed, (3) the characteristics of the substance, (4) the effects of exposure and the associated symptoms, (5) appropriate emergency treatment in case of over-exposure, (6) proper conditions for safe use and exposure, and (7) procedures for cleanup of leaks and spills. To the extent possible, this information must be provided in informal and readily understandable language.

ENFORCEMENT: *Division of Occupational Safety and Health, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

SPECIAL NOTE: The Connecticut Department of Labor has indicated that it may not be able to enforce these provisions against private employers, since Connecticut does not have a federally approved job safety and health plan.

WAGES AND HOURS

● CONNECTICUT MINIMUM WAGE ACT

TERMS:

Minimum Wage for Adults — To the same extent as most other classes of workers, adults employed in agricultural labor are entitled to receive at least \$10.10 for every hour of work.

Minors Employed in Agriculture — Workers between the ages of 14 and 18 employed in agriculture must be paid no less than (a) \$8.59 per hour when working for an agricultural employer who employed 8 or more workers at any one time during the previous year, or (b) \$7.07 an hour when working for an employer who did not employ 8 or more workers at any one time last year.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).* A worker who receives less than the applicable minimum wage may file a complaint with the Department, which may take action against the employer to collect the unpaid wages.

As an alternative to filing a claim with the state labor department, workers may recover unpaid minimum wages through civil court action, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (*WAGE STATEMENTS*)

TERMS: In most cases, employers in Connecticut must furnish each of their workers with a written statement at the time of each wage payment showing hours worked, gross regular and overtime earnings, itemized deductions, and net earnings.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).* Workers who do not receive a wage statement at the time of payment in accordance with this provision may file a complaint with the Department.

● STATE WAGE PAYMENT LAW

TERMS:

Paydays and Pay Periods — Employers must generally pay their workers weekly or bi-weekly, on a regular payday designated in advance. The payday may not be more than 8 days after the end of the period for which the payment is being made; if the regular payday falls on a non-workday, wages must be paid on the preceding workday.

Final Wages — When a worker quits, the employer must pay the worker's wages in full not later than the next regular payday. When an employer terminates a worker, the employer must pay final wages not later than the next business day after termination.

Deductions from Wages — Employers are prohibited from withholding or diverting any part of a worker's wages unless (1) the employer is authorized to do so under federal or state law, (2) the employer has written authorization to do so from the worker, or (3) the deductions are for automatic contributions to a federally recognized retirement plan.

ENFORCEMENT: *Division of Wage and Workplace Standards, Connecticut Department of Labor, Wethersfield, Connecticut 06109 (860-263-6791).* This agency has authority to receive complaints regarding unpaid wages, and to take legal action to collect unpaid wages and impose fines on employers who violate these provisions.

As an alternative to filing a wage claim with the state labor department, workers may recover unpaid wages through action in civil court, using a private attorney or a public legal service provider.

● STATE INCOME TAX LAW

TERMS: Most employers in Connecticut are required to withhold state income tax from their workers' wages. By January 31 of the following year, employers must provide to each employee a federal Form W-2, showing the amount of Connecticut wages the employer paid during the calendar year and the amount of state income tax the employer withheld over the same period.

ENFORCEMENT: *Tax Division, Department of Revenue Services, Hartford, Connecticut 06106 (860-297-5943).* Any worker who has reason to believe that taxes deducted from pay are not being properly forwarded and reported to the worker's credit should contact the Department, which will investigate the complaint.

Delaware

CHILD LABOR

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: Regardless of occupational status, every person in the state who has control of a child between the ages of 5 and 16 is generally required to send the child to a public school in the district where the child's parents are living, for the entire length of the school term.

ENFORCEMENT: These provisions are enforced by local school superintendents, local law enforcement officers, and justices of the peace.

CIVIL RIGHTS

● WAGE PAYMENT AND COLLECTION ACT OF THE STATE (*EQUAL PAY PROVISION*)

TERMS: In general, it is illegal for a farm operator or any other employer in the state to pay a worker a wage that is less than the rate the employer pays to workers of the opposite sex for equal work, on a job which requires equal skill, effort and responsibility and is performed under similar working conditions.

Wage differences that are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or any other factor other than sex are generally not against the law.

ENFORCEMENT: *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

HEALTH AND SAFETY

● STATE HEALTH AND SAFETY LAWS (*FIELD SANITATION*)

TERMS: Farm operators who have 11 or more workers on any given day performing hand-labor operations in the field for more than 3 hours straight (including transportation time to and from the field) must provide the workers with drinking water, toilets, and handwashing facilities, as outlined below.

Drinking Water — At locations readily accessible to the workers, there must be a supply of suitably cool, sanitary drinking water, dispensed in single-use drinking cups or from fountains. The employer must furnish no less than 6 quarts of water per worker per day.

Toilets and Handwashing Facilities — One toilet and one handwashing facility (including soap and single-use towels) must be provided for every 20 workers or fraction thereof. Sanitation equipment must be within 1/4 mile of each worker's place of work in the field, but if conditions prevent compliance with the 1/4-mile distance limit, facilities must be placed at the point nearest the workers where entry by vehicle is still possible. Toilets and washing equipment must be kept clean and sanitary.

Workers must be allowed reasonable opportunities during the workday to use the facilities.

ENFORCEMENT: *Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220).*

HOUSING

● STATE HEALTH AND SAFETY LAWS (*MIGRATORY AGRICULTURAL LABOR HOUSING*)

TERMS: The state health department has adopted rules regulating migrant labor camps in Delaware, which apply to any structure, trailer or mobile home maintained or used as living quarters for 5 or more migrant farmworkers.

Inspection and Permit — No one may build, advertise or open a migrant labor camp without a permit issued by the state. An application for a permit must be submitted at least 30 days before the expected date of arrival of the occupants. The state agency must inspect the housing before a permit is issued, to determine if the camp meets minimum standards. Permits must be renewed each year.

Minimum Standards — A migrant labor camp may not be issued a permit unless the facility complies with the detailed standards specified in the state rules. Among many other factors considered in determining if a housing facility meets the standards are these:

- The camp site
- The adequacy and condition of the housing structures
- The water supply
- Space and condition of living quarters
- Toilet and bathing facilities
- Lighting
- Heating equipment
- Cooking and eating accommodations
- Laundry facilities
- Garbage and trash facilities
- First aid equipment and safety procedures

ENFORCEMENT: *Migrant Labor Camp Program, Division of Public Health, Delaware Department of Health and Social Services, Dover, Delaware 19901 (302-744-1220).*

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid at least \$20,000 in cash agricultural wages during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more workers in agricultural labor for some part of a day in at least 20 different weeks this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. Benefits currently range from \$20 to \$330 per week, depending on the worker's past earnings.

ENFORCEMENT: *Division of Unemployment Insurance, Delaware Department of Labor, Newark, Delaware 19702 (302-368-6600).* Workers who wish to apply for unemployment compensation may file a claim online, at uics.delawareworks.com/Forms/Form_WL1.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● STATE LABOR LAWS (AGRICULTURAL LABOR CONTRACTORS)

TERMS: It is illegal for a farm operator or other agricultural employer in Delaware to enter into a work contract or agreement with a farm labor contractor who recruits farmworkers from outside the state, without first making a reasonable effort to assure that the contractor is registered with the U.S. Department of Labor (*see entry, U.S. — Labor Contractors and Worker Recruitment*).

ENFORCEMENT: *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE LAW

TERMS:

Licensing — No one may engage in the business of applying pesticides on someone else's land without being licensed to do so and passing an examination demonstrating the ability to use pesticides safely and effectively. Similarly, farm operators who intend to apply restricted pesticides to their own crops must be certified by the state as competent to use such products safely.

Financial Responsibility — In general, the state agency may not certify any commercial agricultural pesticide applicator, or license any commercial pesticide application business, until the applicant has obtained a liability insurance policy in the amount of \$300,000 for injury or death, and \$100,000 for property damage, resulting from the use or misuse of pesticides.

Pesticide Labels — At each place where they apply pesticides, commercial applicators are required to have a copy of the pesticide label available, and to provide information from the product label to any interested person at or near the site.

Prohibited Acts — Among other prohibited acts, it is illegal for anyone to apply a restricted pesticide without a certified applicator in direct supervision, or to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock or wildlife.

ENFORCEMENT: *Pesticides Management Section, Delaware Department of Agriculture, Dover, Delaware 19901 (302-698-4571).* A person claiming injury or damage from a pesticide application should file a written report within 60 days of the alleged incident with the Department, which is obligated to investigate the complaint.

WAGES AND HOURS

● WAGE PAYMENT AND COLLECTION ACT OF THE STATE

TERMS:

Paydays and Pay Periods — Employers in Delaware must pay their workers on regular paydays designated in advance. In no case may paydays be less often than once a month, and a regular payday must occur not more than 7 days after the end of each pay period. If the regular payday falls on a non-workday, payment must be made on the preceding workday.

Method of Pay — Wages must generally be paid in lawful U.S. money, by check, or with a payroll debit card. Use of checks is allowable only if the employer makes suitable arrangements for cashing checks, without discount, at a bank or other business establishment convenient to the workplace, and payment using debit cards is subject to state restrictions.

Final Wages — Whenever a worker quits or is laid off or fired, final wages are due on the next regular payday.

Withholding of Wages — An employer may not withhold any portion of a worker's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for documented health care or medical services, without financial benefit to the employer, or (3) the employer has a signed authorization from the worker for deductions for a lawful purpose benefiting the worker.

Wage Statements and Recordkeeping — Every employer with more than 3 employees is required (1) to notify each worker in writing, at the time of hiring, of the wage rate to be paid and the day, hour and place of payment, and (2) to furnish each worker with a written statement at the time of payment showing the wages earned, the pay period, itemized deductions from earnings, and, for employees paid at an hourly rate, the total number of hours worked. In addition, such employers must safeguard all wage and hour records at their place of business for a period of at least 3 years.

ENFORCEMENT: *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200).*

As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● STATE INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31 — or within 30 days after the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld, if any.

ENFORCEMENT: *Division of Revenue, Delaware Department of Finance, Wilmington, Delaware 19801 (302-577-8779).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Florida

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Minimum Age — As in most other occupational and industrial categories, generally no one under the age of 14 may be employed or permitted to work in agricultural activities.

Proof of Age — Anyone who intends to hire or employ any worker under 18 years of age must first obtain and keep on record during the entire period of employment proof of the worker's age. The range of acceptable documentation is limited to either (1) a photocopy of the worker's birth certificate, (2) a photocopy of the worker's driver's license, (3) an age certificate issued by the school board in the public school district in which the worker is employed, or (4) a photocopy of a passport or visa which shows the worker's date of birth.

Hazardous Occupations — In general, no one under the age of 16 may be employed in connection with power-driven farm machinery, and no one under the age of 18 may work in fields where pesticides or herbicides have been applied until the applicable re-entry times have expired. Farmworkers 14 and 15 years of age may drive tractors only under close supervision of the farm operator.

Hours of Work —

Children Age 14 and 15 — Workers 14 and 15 years of age may not work before 7:00 a.m. or after 7:00 p.m. on days before school days, nor for more than 15 hours in any one week. On school days, they generally may not work more than 3 hours except when there is no school the following day. During holidays and summer vacations, 14- and 15-year-old children may work only between the hours of 7:00 a.m. and 9:00 p.m., for no more than 8 hours in any one day, and for no more than 40 hours in any one week.

Children Age 16 and 17 — Workers 16 and 17 years of age may not work before 6:30 a.m., after 11:00 p.m., or for more than 8 hours on any day before a school day. When school is in session, 16- and 17-year-olds are limited to working no more than 30 hours in any one week, and they are not permitted to work during school hours without a waiver or other exception. At no time may they work for more than 6 consecutive days in any one week.

Meal Periods — No one 17 years old or younger may work or be allowed to work for more than 4 hours straight without a meal break of at least 30 minutes.

ENFORCEMENT: *Child Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-3131).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With few exceptions, all children who have reached the age of 6 years but are not yet 16 are required to attend school regularly during the entire school term. The law makes the parent of such a child responsible for the child's attendance.

ENFORCEMENT: These provisions are enforced by local school superintendents.

● WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

TERMS: Whenever a minor employed in violation of the state child labor law is injured on the job, the state agency that administers the Workers' Compensation Law is authorized to award up to *double* the amount of compensation benefits that would normally be payable to the worker or the worker's dependents.

Under the law's coverage provisions, injured minors illegally employed in agriculture at the time of an injury are entitled to extra compensation only if they were employed by a farm operator that (1) employs 6 or more regular farm employees, (2) employs 12 or more seasonal farmworkers at any one time, (3) employs any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employs seasonal farmworkers for a total period of more than 45 days in a calendar year.

ENFORCEMENT: *Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609).*

CIVIL RIGHTS

● FLORIDA CIVIL RIGHTS ACT OF 1992

TERMS: Farm operators and other employers who have at least 15 workers on each working day in 20 or more different weeks during the current or previous year are prohibited from firing an employee, or refusing to hire a job applicant, because of the individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. It is also illegal for such employers to discriminate on any of these same grounds against a worker or job applicant with respect to wages or other conditions of employment, or to limit, segregate or classify employees or job applicants on the same grounds in a way that would tend to deprive them of job opportunities or adversely affect their employment status.

The law further forbids any such employer from publishing or distributing any advertisement or notice relating to employment which indicates a preference or limitation based on race, color, religion, sex, pregnancy, national origin, age, absence of handicap, or marital status.

ENFORCEMENT: *Florida Commission on Human Relations, Tallahassee, Florida 32399 (850-488-7082; toll-free 800-342-8170).* A worker who has suffered from an unlawful employment practice under the Act may file a complaint with the Commission within 365 days of the alleged violation. If it finds that a violation has occurred, the Commission has authority to provide affirmative relief, including reinstatement, back pay and attorney's fees.

If the Commission confirms a violation, the worker has the option of filing suit against the person responsible directly, using a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● GENERAL LABOR REGULATIONS (*WAGE DISCRIMINATION*)

TERMS: In general, no employer who has 2 or more employees in the state may pay wages to any worker at a rate less than the rate the same employer pays workers of the opposite sex for equal work, on jobs that require equal skill, effort and responsibility and are performed under similar working conditions.

This law applies *only* to employers and employees who are not covered by the federal minimum wage law, and thus protects farmworkers who work for a farm operator that did not use more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

ENFORCEMENT: The rights provided under these provisions may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

● WHISTLEBLOWER LAW

TERMS: It is illegal for employers of 10 or more workers to fire, suspend, demote, or punish a worker in any other way, for giving information to a government agency about an activity, policy or practice of the employer that violates federal, state or local law. It is also unlawful for an employer to retaliate against a worker who has testified or provided information to a governmental agency conducting an investigation, hearing or inquiry into an employer's alleged violation of a law or regulation.

Before a worker can claim damages for reporting an employer's unlawful activity, policy or practice, the worker must first report the alleged violation to a supervisor or to the employer, in writing, and give the employer a reasonable opportunity to correct the activity, policy or practice.

ENFORCEMENT: A worker who has suffered retaliation in violation of this law may take action in civil court against the employer involved, using a private attorney or public legal service provider. The suit must be filed within 2 years after the worker discovers the retaliatory action, or within 4 years after the action was taken, whichever is earlier.

HEALTH AND SAFETY

● PUBLIC HEALTH LAWS (*FIELD SANITATION*)

TERMS: Where 5 to 10 farmworkers are performing hand-labor operations at one location at one time, their employer must provide them with certain sanitation facilities.

Toilet and Handwashing Facilities — There must be one toilet and one handwashing unit provided for the workers' use. The toilet unit and the handwashing unit must be next to one another and located within a 1/4-mile walk from any worker's place in the field. Where conditions make it difficult to place the sanitation facilities within that distance limit, they must be located at the point closest to the field where entry by vehicles is still possible.

The toilet unit must have screened ventilation openings and self-closing doors that can be locked from the inside. The handwashing unit must be supplied with clean, sanitary water, along with soap or other cleanser and single-use hand-drying towels. There must also be a waste container nearby for the used towels.

Drinking Water — Drinking water must be readily available to the workers. The water must be clean, sanitary, suitably cool and in sufficient amounts, taking into account the air temperature, humidity and the nature of the work performed. Unless bottled water is provided or water is provided by means of a fountain, water containers must be made of durable, non-absorbent material and be supplied with single-use cups; the use of common drinking cups is prohibited.

ENFORCEMENT: *Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250).* Representatives of this agency, as well as county health department staff, may conduct inspections of field sanitation facilities at random.

HOUSING

● PUBLIC HEALTH LAWS (MIGRANT HOUSING)

TERMS: The state public health laws regulate migrant labor camps and residential migrant housing in Florida. In brief, a migrant labor camp is one or more buildings, structures, barracks or dormitories provided to seasonal or migrant farmworkers in connection with their employment and used as their living quarters whether they pay rent or not.

Residential migrant housing is a building, structure, mobile home, barracks or dormitory rented or reserved for use by 5 or more migrant farmworkers, but does not include any single-family residence occupied by a single family, or a hotel or motel furnished for short-term occupancy.

Permits — No one may establish or operate a migrant labor camp or residential migrant housing in Florida without first obtaining a permit to do so, and unless the permit is kept posted in the camp at all times.

Inspection — Before a permit may be issued, a migrant housing facility must be inspected and found in compliance with detailed state rules, which cover these and numerous other factors:

- The suitability of the housing site
- The size, construction and condition of camp structures
- The water system
- The sewage disposal system
- Lighting
- Toilet and bathing facilities
- Laundry facilities
- Food service facilities
- Sleeping accommodations
- Garbage and trash disposal facilities and procedures
- Pest control
- Pesticide use, storage and disposal

ENFORCEMENT: *Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250).* County health units are also authorized to inspect migrant housing facilities, and to issue permits to qualified applicants.

SPECIAL NOTE: It is illegal for the owner or operator of a migrant labor camp or residential migrant housing facility to retaliate against residents or occupants who make complaints in good faith about housing and sanitary conditions.

● PUBLIC HEALTH LAWS (*ACCESS TO MIGRANT HOUSING*)

TERMS:

Right of Access by Invited Guests — A resident of a migrant labor camp or residential migrant housing (both defined in the previous summary) may decide who may visit him or her in the resident's private living quarters. No one may keep an invited guest from entering or leaving a resident's private living quarters, by putting up any sort of barrier or by use of force, violence or threats. However, an invited guest must leave the private living quarters at the request of a resident residing within the same living quarters.

Right of Access by Others — No one may keep other authorized visitors from entering or leaving the common areas of a migrant housing facility, by putting up any sort of barrier or by use of force, violence or threats. However, owners and operators of migrant housing facilities may adopt reasonable rules regulating hours of access, as long as they permit at least 4 hours of access each day during non-working hours Monday through Saturday, and between 12 noon and 8:00 p.m. on Sunday.

Other Rules — Migrant housing owners or operators may adopt other rules regulating access, but only if they are reasonably related to the purpose of promoting the safety, welfare or security of the residents, visitors, or the owner or operator's business. However, rules relating to access are not enforceable unless they have been posted at the housing facility, with a copy submitted to the *Migrant Farmworker Housing Program, Environmental Health Division, Florida Department of Health, Tallahassee, Florida 32399 (850-245-4250)*.

ENFORCEMENT: A person who has been denied access to a migrant labor camp or residential migrant housing in apparent violation of these provisions may file a complaint in the appropriate court in the county where the housing is located, using a private attorney or public legal service provider.

INSURANCE AND COMPENSATION

● REEMPLOYMENT ASSISTANCE PROGRAM LAW

TERMS: Farm operators and other agricultural employers are required to pay unemployment insurance taxes to the state if they paid at least \$10,000 in cash farm wages in any 3-month period (calendar quarter) in the current or previous year, or they employed 5 or more farmworkers for some part of a day in 20 or more separate weeks this year or last. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment insurance benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. Unemployment benefits currently range from \$32 to \$275 per week, depending on the worker's past earnings.

ENFORCEMENT: *Office of Reemployment Assistance, Florida Department of Economic Opportunity, Tallahassee, Florida 32399 (800-204-2418)*. Claims for unemployment compensation can be submitted online, at connect.myflorida.com/Claimant/Core/Login.ASPX.

● WORKERS' COMPENSATION LAW

TERMS: Farm operators and other agricultural establishments generally must have workers' compensation insurance, or the financial ability to pay compensation directly, if they (1) employ 6 or more regular farm employees, (2) employ 12 or more seasonal farmworkers at any one time, (3) employ any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employ seasonal farmworkers for a cumulative period of more than 45 days in a calendar year.

A worker who is employed by any such farm operation, and who is injured on the job, is entitled to the payment of medical services and supplies, cash disability benefits in place of lost wages, and — in the case of a worker who is injured or killed in the course of employment — death benefits to the worker's surviving dependents.

ENFORCEMENT: *Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609)*.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CONTRACTOR REGISTRATION LAW

TERMS:

Contractor Registration — In general, it is illegal for any individual, for a fee, to recruit, transport, supply or hire any farmworker to work for or under the direction of someone else, or to recruit, transport, supply or hire any farmworker and supervise the worker for profit, unless the individual has a valid farm labor contractor registration certificate issued by the state. Farm labor contractors must carry their registration certificate at all times while engaging in such activities, and no one may contract with any farm labor contractor for the employment of farmworkers until the contractor presents a current certificate.

Exceptions — This law *does not apply* to farm owners or operators, or to owners or operators of packinghouses or food processing plants, who employ workers in planting, cultivating, harvesting or preparing agricultural products for delivery to such packinghouses or food processing plants. The law also does not apply to anyone who transports workers solely by means of a carpool.

Prohibited Acts — The state may revoke, suspend or refuse to renew a certificate of registration when there is evidence that the farm labor contractor has (1) violated any provision of the Farm Labor Contractor Registration Law, (2) made any false or misleading statement in the application for the certificate, (3) given false or misleading information concerning the terms, conditions or existence of employment to persons recruited or hired to work on a farm, or (4) failed to pay unemployment insurance taxes or federal employment taxes, if required by law.

Contractor Responsibilities — Among other duties, every farm labor contractor must display at the worksite, and on all vehicles used by the contractor to transport workers, a copy of the registration certificate and a statement — in English and in the language of the majority of the non-English-speaking workers — showing the pay rate the contractor is receiving from the grower for whom the work is being performed and the pay rate the contractor is paying to the workers for their services. Twice a month or at the time of each payment of wages, the contractor must furnish each worker with an itemized written statement showing each and every deduction made from the worker's pay.

Insurance — Farm labor contractors are required to have adequate insurance against injury or damage resulting from operation or ownership of any vehicle used to transport farmworkers that they recruit or hire. Furthermore, contractors must provide evidence to the state agency that each vehicle they use for worker transportation meets state and federal safety requirements, or has a valid inspection sticker indicating that the vehicle has passed inspection in the state where it is registered.

ENFORCEMENT: *Farm Labor Program, Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603).*

SPECIAL NOTE: Under a signed agreement with the U.S. Department of Labor, this agency is also authorized to receive and process applications for, and to issue, farm labor contractor registration certificates under the federal Migrant and Seasonal Agricultural Worker Protection Act (*see entry, U.S. — Labor Contractors and Worker Recruitment*).

SPECIAL NOTE: It is illegal for a farm labor contractor to retaliate against anyone who has filed a complaint or aided an investigation under this law.

LABOR RELATIONS AND UNION REPRESENTATION

● STATE LABOR LAWS (*LABOR ORGANIZATIONS*)

TERMS: Agricultural and non-agricultural workers in Florida have the right to organize, to bargain with their employers over the terms and conditions of employment, and, with certain limitations, to go on strike.

Every labor organization which has Florida residents among its membership, which is organized for the purpose of dealing with employers concerning wages, hours, working conditions or worker complaints, and which is recognized as a bargaining agent by one or more employers doing business in the state, is required to register with the state each year and to comply with prescribed recordkeeping, reporting and other requirements.

ENFORCEMENT: *Division of Regulation, Department of Business and Professional Regulation, Tallahassee, Florida 32399 (850-488-6603).* This agency is responsible for enforcing union registration, recordkeeping and reporting requirements, and for licensing union business agents.

Workers who believe that their labor rights have been denied or limited in violation of the law should consult a private attorney or a public legal services program about the possibility of legal action in civil court.

PESTICIDES AND AGRICULTURAL CHEMICALS**● FLORIDA PESTICIDE LAW****TERMS:**

Licensing and Certification — With few exceptions, it is unlawful for anyone to apply restricted pesticides to agricultural crops without having a certified applicator's license issued by the state or without direct supervision by a certified applicator. Certification requires successful completion of an examination to demonstrate adequate knowledge of the proper use of pesticides. Licenses must be renewed and applicators re-certified every 4 years.

Prohibited Acts — Among other grounds for disciplinary action, licensed pesticide applicators are prohibited from:

- (1) Applying pesticides in a manner contrary to instructions on the product label.
- (2) Operating faulty or unsafe equipment.
- (3) Operating in a faulty, careless or negligent manner so as to cause damage to people or property.
- (4) Applying any pesticide that is harmful to human beings to fields where individuals are working.
- (5) Failing to give the farm operator, at the time pesticides are applied to a crop, full information about potentially harmful effects on humans or animals and safe minimum re-entry times for workers or animals.
- (6) Refusing or neglecting to keep and maintain records, or to make reports as required.
- (7) Failing to report any known damage to property, or illness or injury to people, caused by the application of pesticides.
- (8) Failing to maintain a current liability insurance policy or surety bond.

Reporting Damage or Injuries — A pesticide applicator who fails to report any known injury or damage caused by an application of pesticides, or who does not have liability insurance or a bond covering such accidents, is in violation of this law.

ENFORCEMENT: *Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997).* A worker who suffers injury or property damage as a result of a pesticide application should file a written report with the Department.

● FLORIDA PESTICIDE LAW (AERIAL APPLICATORS)

TERMS: Among other provisions contained in the regulations adopted under the Florida Pesticide Law, aerial applicators must comply with these requirements:

Aircraft Registration — Each aircraft used for aerial application of pesticides must be registered with the state each year.

Proof of Insurance — The individual or company applying for registration must put up a surety bond in the minimum amount of \$100,000 covering damage or injury to people or property as the result of aerial pesticide application by the registered aircraft. As an alternative, the applicant may file a certificate of insurance, verifying insurance coverage of not less than \$100,000 for property damage and \$300,000 for bodily injury.

ENFORCEMENT: *Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997).* A worker or other person who suffers injury or property damage stemming from application of a pesticide should file a written statement with the Department.

● FLORIDA AGRICULTURAL WORKER SAFETY ACT

TERMS: To each worker who enters an area that has been treated with a pesticide within the past 30 days, or where a restricted-entry interval has been or is still in effect, the worker's employer must provide a fact sheet or safety data sheet on the particular pesticide involved. The information must be provided within 2 working days after the worker requests it.

It is illegal for a farm employer to fail to provide the required agricultural pesticide information to their workers, or to retaliate in any way against a worker for exercising any right afforded under this law.

ENFORCEMENT: *Bureau of Licensing and Enforcement, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Tallahassee, Florida 32399 (850-617-7997).*

SPECIAL NOTE: A worker who has been fired, disciplined or discriminated against for having requested any information to which he or she is entitled under the Florida Agricultural Worker Safety Act may file a complaint with the enforcement agency.

TRANSPORTATION

● FLORIDA UNIFORM TRAFFIC CONTROL LAW (*FARM LABOR VEHICLES*)

TERMS: Except for drivers transporting only themselves or their immediate family, any person who transports or who arranges for the transportation of 9 or more migrant or seasonal farmworkers to or from their employment must comply with state requirements for the maintenance and operation of vehicles under their control, summarized as follows.

Compliance with Federal Vehicle Standards — The owner or operator of any vehicle used to transport farmworkers on Florida's public highways must ensure that the vehicle meets vehicle safety standards under the Migrant and Seasonal Agricultural Worker Protection Act and the federal motor carrier laws regulating the transportation of migrant agricultural workers (*see entries, U.S. — Transportation*).

Seat Belts — Farm labor vehicles with a gross weight rating of 10,000 pounds or less must be equipped with an approved seat belt for each passenger and must display a notice requiring passengers to fasten their seat belts.

Authorization Sticker — A farm labor contractor is prohibited from transporting migrant or seasonal farmworkers unless the vehicle clearly displays a state-issued sticker authorizing the contractor to do so.

ENFORCEMENT: *Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300)*. These provisions are also enforced by county sheriffs' offices and city police departments.

● DRIVER LICENSE LAWS (*NON-RESIDENTS*)

TERMS: Unlike most other non-residents who accept employment or enroll their children in the public schools in Florida, migrant and seasonal farmworkers who are not legal residents of Florida and who have a valid driver's license issued by another state are not required to obtain a Florida license.

ENFORCEMENT: *Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300)*. These provisions are also enforced by city and county law enforcement officers.

● MOTOR VEHICLE LICENSE LAWS (*NON-RESIDENTS*)

TERMS: While most other non-residents who accept employment in Florida must promptly register their vehicles in the state, migrant farmworkers who are not legal residents of Florida and whose vehicles are properly registered or licensed under the laws of some other state are not required to register their vehicles in Florida.

ENFORCEMENT: *Florida Highway Patrol, Department of Highway Safety and Motor Vehicles, Tallahassee, Florida 32399 (850-617-2300)*. These provisions are also enforced by county sheriffs' offices and city police departments.

WAGES AND HOURS

● FLORIDA MINIMUM WAGE ACT

TERMS: Farmworkers who are employed by a farm establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) must be paid no less than the state minimum wage.

Effective January 1, 2017, Florida's minimum wage is \$8.10 an hour. The minimum wage rate is adjusted on September 30 each year, to reflect changes in the cost of living. The revised rate goes into effect the following January 1.

ENFORCEMENT: Workers who believe they have been denied their right to receive the state minimum wage must file suit in civil court to enforce compliance, using a private attorney or public legal service provider. Before filing suit, however, a worker must notify the employer involved of the intent to sue and identify the minimum wage rate the worker believes he or she is entitled to, the dates and hours of work, and the total amount of unpaid wages claimed.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● GENERAL LABOR REGULATIONS (*LEGAL DAY'S WORK*)

TERMS: Unless specified otherwise in a written contract, a worker employed to perform manual labor of any kind by the day, week, month or year is considered to have performed a legal day's work when the worker puts in 10 hours of labor. Any worker required by the employer to work more than 10 hours in a single day must receive extra pay, unless there is a written contract to the contrary.

ENFORCEMENT: A worker who has not received overtime pay in accordance with these provisions may take legal action against the employer to collect the unpaid wages, using a private attorney or a public legal services program.

Georgia

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Hours of Work — Children under the age of 16 are not allowed to work during school hours. A child under 16 may be employed for no more than 4 hours a day on school days, no more than 8 hours on non-school days, and no more than 40 hours in any one week. Employment of children under 16 is generally forbidden between the hours of 9:00 p.m. and 6:00 a.m.

Employment Certificates — No minor between the ages of 12 and 16 may be employed without obtaining an employment certificate from a local school official where the child attends. An employment certificate is not required for the employment of a child under the age of 12 in agriculture.

ENFORCEMENT: *Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3260).*

● COMPULSORY ATTENDANCE LAW

TERMS: With few exceptions, every parent or other resident of the state who has control of any child between the ages of 6 and 16 must enroll and send the child to a public school, a private school, or a home study program that meets state educational requirements.

ENFORCEMENT: This law is enforced by local boards of education and their respective superintendents, in cooperation with local peace officers.

CIVIL RIGHTS

● GEORGIA EQUAL EMPLOYMENT FOR PERSONS WITH DISABILITIES CODE

TERMS: Employers with 15 or more employees are prohibited from refusing to hire, from firing, or from otherwise discriminating against a person with a disability, with respect to wages, rates of pay, hours or other terms and conditions of employment because of the person's disability.

An employer may, however, ask about the disability of an applicant and may reject the applicant if the disability would interfere with the person's ability to adequately perform assigned job duties.

ENFORCEMENT: A worker with a disability who has experienced employment discrimination on account of his or her disability may file a complaint in civil court against the employer, using a private attorney or public legal services program. Any such complaint must be filed within 180 days after the alleged incident occurred.

● GENERAL LABOR LAWS (*AGE DISCRIMINATION*)

TERMS: With few exceptions, it is illegal for any person, company or association conducting business in Georgia to fire, or to refuse to hire, any worker between the ages of 40 and 70 solely because of the worker's age, when the reasonable duties of the job do not require such an age distinction and the worker is qualified to satisfactorily perform the job.

ENFORCEMENT: The right under this law to employment free from age discrimination may be enforced only in civil court, through a private attorney or public legal services program.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY LAW

TERMS: Agricultural employers who paid at least \$20,000 in cash farm wages during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 farmworkers in 20 or more calendar weeks this year or last, are required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. Unemployment benefits currently range from \$44 to \$330 a week, depending on the worker's recent earnings.

ENFORCEMENT: *Unemployment Insurance Division, Georgia Department of Labor, Atlanta, Georgia 30303 (404-232-3180).* Claims may be filed in person at any local Georgia Department of Labor career center, or online at dol.georgia.gov/.

PESTICIDES AND AGRICULTURAL CHEMICALS

● GEORGIA PESTICIDE USE AND APPLICATION ACT OF 1976

TERMS:

Licensing — No one may purchase, use or supervise the use of any pesticide as a private or commercial applicator unless the individual is licensed by the state to do so, or is acting under the direct supervision of a licensed applicator. Private applicators must attend training or pass a written examination before they can be certified, and commercial applicators must demonstrate competency to apply pesticides safely, effectively and without damage to the environment.

Likewise, pesticide application businesses must also be licensed, which requires (among other conditions) that they be bonded or insured or post a cash deposit to cover liability for damages that may result from their pesticide operations.

Exception — The pesticide applicator licensing provisions do not apply to farmers applying non-restricted pesticides on their own land, or on neighboring land at the request of a neighboring farm operator.

Prohibited Acts — No one may transport, store or dispose of a pesticide or pesticide container in such a way as to cause injury to humans, vegetation, crops, livestock or wildlife. Operating faulty or unsafe equipment, operating in a faulty, careless or negligent manner, or refusing or neglecting to keep required records or to make required reports is also unlawful.

ENFORCEMENT: *Pesticide Program, Plant Industry Division, Georgia Department of Agriculture, Atlanta, Georgia 30334 (404-656-4958).* Anyone who has been injured or has suffered damages from a pesticide application may file a report of the incident with the Department, no later than 60 days after the injury or damage occurs.

WAGES AND HOURS

● STATE WITHHOLDING TAX LAW

TERMS: Unlike earnings in most other industries, wages paid for agricultural labor in Georgia are not subject to withholding of state income tax.

ENFORCEMENT: *Georgia Department of Revenue, Atlanta, Georgia 30345.*

SPECIAL NOTE: Even though farm employers are not required to withhold state income taxes from their employees' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Hawaii

CHILD LABOR

● CHILD LABOR LAW

TERMS: The state child labor law limits the ages, hours and occupations of workers under the age of 18, as summarized below.

Age and Hour Restrictions —

Children Under Age 14 — In general, the only agricultural activity open to children under 14 years of age is in the harvesting of coffee. Among other restrictions, youth between the ages of 10 and 14 may work in the coffee harvest (1) only when they are not legally required to attend school, (2) the state labor department has determined that there are not enough adult workers available to perform the work, (3) the employer obtains an employment certificate for each such child employed, and (4) only when they are under the direct supervision of their parent or legal guardian. Children 10 to 14 years old may work in the coffee harvest only from 6:00 a.m. and 6:00 p.m., and they are not allowed to work for more than 2 hours straight without a rest period of at least 15 minutes, or for more than 4 hours straight without a meal period of at least one hour. Children under 14 may not work more than 6 hours on any one day or more than 30 hours in any one week, or for more than 5 consecutive days. Children under 12 are forbidden to use most harvesting equipment or to carry loads weighing more than 15 pounds.

Children Age 14 and 15 — Children 14 and 15 years of age may be employed only during periods when they are not required by law to attend school, and only when their employer has on file an employment certificate for each such worker. A 14- or 15-year-old may not work more than 5 continuous hours without a lunch or rest period of at least 30 minutes, nor may such a person be allowed to work for more than 6 consecutive days, more than 40 hours in any one week (18 hours when school is in session), or more than 8 hours in any one day (3 hours on any school day). In general, employment of workers age 14 and 15 is prohibited before 7:00 a.m. and after 7:00 p.m. of any day, except during an authorized school break, when they may work between 6:00 a.m. and 9:00 p.m. Under certain conditions, the working hours outlined above may be extended for 15-year-olds, who may be permitted to work in the harvest of pineapples as late as 12:30 a.m. on any day and for up to 48 hours in a single workweek, but only from June 1 through the day before Labor Day.

Children Age 16 and 17 — Provided the employer records and keeps on file the number of a valid age certificate issued to the minor, a person age 16 or 17 may be employed at any time he or she is not legally required to be in school or has been excused by school authorities from attending.

Hazardous Occupations — No one under the age of 18 may be employed or allowed to work in any occupation declared hazardous for minors, including the following agricultural or agriculturally related occupations, among others:

- (1) Transporting, transferring or applying anhydrous ammonia.
- (2) Any activity involving the use of restricted pesticides.
- (3) Operating a tractor of over 20 horsepower, or connecting or disconnecting equipment to or from such a tractor.
- (4) Operating or assisting in the operation of a corn picker, feed grinder, forklift, or other such power equipment.
- (5) Working from a ladder or scaffold from a height of over 20 feet.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With only a few exceptions, all children in Hawaii who, on or before July 31 of any school year, will have reached the age of 5 or older, but will not have reached age 18 by January 1 of that school year, are required to attend either a public or private school during that school year. Any parent or other person responsible for such a child must see that the child attends school as required.

ENFORCEMENT: *Hawaii State Department of Education, Honolulu, Hawaii 96813 (808-305-9787).* Local police officers may also enforce these provisions.

CIVIL RIGHTS**● STATE LABOR LAWS (*DISCRIMINATORY PRACTICES*)****TERMS:**

Unlawful Practices — With only limited exceptions, employers are prohibited from refusing to hire a job applicant, firing an employee, or discriminating against anyone in the payment of wages or in the terms or conditions of employment, because of race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status. Similar acts of discrimination by employment agencies and labor organizations are also illegal.

Employers and employment agencies are forbidden from printing or circulating any statement or advertisement, and from using any form of job application, which indicates any preference or discrimination on these same grounds.

Equal Pay — An employer is generally prohibited from paying workers lower wages than the same employer pays workers of the opposite sex for equal work, on jobs that require equal skill, effort and responsibility and are performed under similar working conditions. Among very few other exceptions, different pay rates that are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a bona fide occupational qualification do not violate this prohibition.

ENFORCEMENT: *Hawaii Civil Rights Commission, Honolulu, Hawaii 96813 (808-586-8636)*. A worker who has been subjected to an unlawful act of employment discrimination may file a complaint with the Commission within 180 days after the act occurred.

Under certain conditions, the worker has the right to sue the employer involved directly, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● WAGE AND HOUR LAW (*WAGE DISCRIMINATION*)

TERMS: In any workweek in which they employ 20 or more workers, employers are generally prohibited from discriminating in the payment of wages on the basis of race, religion or sex.

Exception — This protection *does not apply* to workers employed in the harvest of coffee.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777)*.

As an alternative to filing a claim with the Department, a worker who has not received equal pay because of illegal wage discrimination under this law may take legal action against the employer directly, using a private attorney or a public legal services program.

SPECIAL NOTE: Although coffee harvest workers and employees of smaller farms and plantations are excluded from these provisions, they may be protected against wage discrimination under the state employment practice laws, described in the previous summary.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions. Likewise, an employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WHISTLEBLOWERS' PROTECTION ACT

TERMS: Employers in Hawaii are prohibited from firing, threatening or otherwise discriminating against a worker in the terms and conditions of employment, because the worker reported — or planned or attempted to report — a violation or suspected violation of a federal, state or local law. It is also illegal for an employer to discriminate against a worker because the worker is asked to participate in an investigation, hearing or inquiry held by a public body or court of law.

ENFORCEMENT: A worker who alleges a violation of this law may file a civil lawsuit against the employer involved for damages or other relief, using a private attorney or public legal service provider. A suit of this nature must be filed within 2 years after the alleged violation occurred.

● STATE LABOR LAWS (*UNLAWFUL SUSPENSION OR DISCHARGE*)

TERMS: It is illegal for an employer to suspend, fire or discriminate against a worker solely because the worker has suffered a work-related injury covered by the state workers' compensation law, unless the worker is no longer able to perform his or her normal job due to the injury and the employer has no other work which the worker is capable of performing.

Any worker who is dismissed because of work-related injury must be given first preference for re-employment by the employer in any job which the worker is capable of performing and which becomes available after the dismissal or until the worker finds new employment.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).*

HEALTH AND SAFETY

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW

TERMS: In general, farm and plantation operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor department has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ENFORCEMENT: *Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).*

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (*FIELD SANITATION*)

TERMS: Under the Hawaii Occupational Safety and Health Law, the state labor department has adopted regulations requiring agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are very similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ENFORCEMENT: *Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).*

HOUSING

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the Occupational Safety and Health Law, the state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Hawaii's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).*

INSURANCE AND COMPENSATION

● HAWAII EMPLOYMENT SECURITY LAW

TERMS: Farm or plantation operators and other agricultural employers who (1) during any calendar quarter in either the current or preceding calendar year, paid at least \$20,000 in cash wages for agricultural labor, or (2) in either the current or preceding calendar year, used agricultural labor in 20 or more calendar weeks, or used at least 10 workers in agricultural labor in any one calendar week, are required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers who have accumulated the necessary wage credits from working for one or more such employers, and who meet the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8913).* Claims for unemployment compensation may be filed at any local UI claims office, or online at uiclaims.hawaii.gov.

● WORKERS' COMPENSATION LAW

TERMS: Agricultural workers who are injured in a job-related accident, or are disabled by an occupational disease, are generally entitled to payment of the cost of medical treatment and rehabilitation, as well as cash disability benefits to compensate for loss of income. Employers may meet their legal responsibility for providing these benefits by having workers' compensation insurance.

ENFORCEMENT: *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200).* The Department may normally accept a claim for compensation benefits from any worker, or the worker's surviving dependents, within 2 years after the date when the effects of the job-related injury became apparent, and within 5 years after the date of the accident which caused the injury.

SPECIAL NOTE: It is illegal for an employer to suspend or fire a worker solely because the worker suffers a work injury covered by this law, unless the employer presents proof that the worker will no longer be able to perform the duties of the job because of the injury and that the employer has no other available work that the worker is capable of performing.

● HAWAII TEMPORARY DISABILITY INSURANCE LAW

TERMS: In general, an agricultural worker or any other employee is eligible to receive temporary disability benefits if the worker (1) is unable to perform normal employment duties due to sickness, pregnancy, termination of pregnancy, donation of a bodily organ, or accident other than a work-related injury, (2) is under the care of a licensed doctor or other health care provider who has certified the disability, and (3) was employed at least 20 hours in each of 14 or more weeks, and earned a total of at least \$400, during the year preceding the first day of disability.

Under the Temporary Disability Insurance Law, it is the employer's responsibility to provide his or her eligible employees with disability benefits. However, to finance the cost, the employer may deduct from the employees' wages up to one-half the cost of coverage, but not more than a certain limit set by the state (\$5.12 a week in 2017); the employer must cover the rest of the cost. In general, workers who earned less than \$400 and worked less than 14 weeks for 20 or more hours each in the year before a particular pay period are not required to pay a contribution for that pay period.

ENFORCEMENT: *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9188).* A worker who becomes disabled by a condition not connected with or resulting from employment may file a disability insurance claim with the employer, generally within 90 days after the onset of the disability. The claim must include a doctor's signed certification of disability.

Any employee who is denied disability benefits by an employer or an employer's insurer may appeal the denial to the Department, which must hold a hearing and issue a determination.

● HAWAII PREPAID HEALTH CARE ACT

TERMS: Farm and plantation operators and all other employers are required to provide health care coverage to each non-seasonal worker who is employed at least 20 hours a week and receives at least \$802 a month in wages. Each such worker is entitled to hospital care, surgical services, doctor visits, lab tests, X-ray services, and maternity benefits. Employers must contribute no less than one-half the total cost of providing prepaid health insurance, and may withhold up to 1.5 percent of each worker's wages to finance the balance.

Currently, the state labor department recognizes only three categories of seasonal agricultural employment, in which workers are not entitled to prepaid health care coverage during their seasonal periods: (1) cultivating, harvesting and processing of coffee, (2) cultivating, harvesting and processing of macadamia nuts, and (3) cultivating, harvesting, processing, canning and warehousing of pineapples.

Seasonal workers and others who are not eligible for coverage are not required to pay contributions to the health care plan.

ENFORCEMENT: *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200).*

LABOR CONTRACTORS AND WORKER RECRUITMENT

● COMMERCIAL EMPLOYMENT AGENCY LAW

TERMS:

Licensing — In general, no one may engage in the business of providing employment information, obtaining jobs for workers, or furnishing workers to employers, without obtaining a license to do so from the state. Labor contractors and other employment agents may not charge or collect any registration fee or advance payment for job-finding services.

Prohibited Acts — Among other unlawful acts, licensed employment agencies and their agents are prohibited from (1) issuing false or misleading information concerning the availability of employment, wages, hours or other job conditions, (2) requiring an employer to deduct from a worker's pay any fee or service charge for the contractor or employment agency, unless the worker has authorized the deduction in writing, or (3) recruiting for or referring workers to any job where a strike, walkout or other labor dispute exists without advising the worker of the situation in writing beforehand.

ENFORCEMENT: *Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96813 (808-587-4272).*

LABOR RELATIONS AND UNION REPRESENTATION

● HAWAII EMPLOYMENT RELATIONS ACT

TERMS:

Worker Rights — Employees in Hawaii (including agricultural workers) who work for an employer with 2 or more employees have a right to self-organize, to form, join or assist labor organizations, and to bargain as a group with their employer through representatives of their own choosing concerning the terms and conditions of employment. While they may be required to join a union under the terms of a labor contract, such workers also have a right not to involve themselves in any or all of these activities.

Representation Elections — Whenever there is a question regarding representation of employees on a particular farm or at a particular workplace, the state agency administering the Act must arrange for and supervise a secret-ballot election and certify the results. The ballot must normally include the names of all potential representatives submitted by any worker or group of workers participating in the election, but the ballot must allow any worker wishing to do so to vote against representation by any party named on the ballot. Representatives chosen by a majority of the employees are the exclusive representatives of all the workers in the unit for purposes of negotiating with the employer, but any worker or any minority group of workers has the right to present grievances to the employer in person or through representatives of their own choosing.

Prohibited Acts — Among other prohibited acts, it is illegal for employers to interfere with their workers in the exercise of the rights mentioned above, or to encourage or discourage union membership by discriminating with respect to hiring or other terms or conditions of employment. It is also unlawful for employers to refuse to bargain in good faith with the representative of a majority of their workers, or to violate the terms of a union contract.

Agricultural Strikes — Where a strike against a producer, harvester or processor of any agricultural product produced in Hawaii could lead to the loss of the crop or product, the workers must give the state agency at least 10 days' notice of their intention to strike. The agency is required to notify the employer immediately of such notice.

ENFORCEMENT: *Hawaii Labor Relations Board, Honolulu, Hawaii 96813 (808-586-8610).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● HAWAII PESTICIDES LAW

TERMS:

Prohibited Acts — Among other violations, it is unlawful for anyone in Hawaii (1) to use any licensed pesticide contrary to instructions on the product label, (2) to use, store, transport or dispose of a pesticide or pesticide container in any way that could harm the environment, and (3) to use or apply restricted pesticides unless the user is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator, with a valid certificate issued by the state.

Certification of Applicators — No one may apply any restricted pesticide in Hawaii without being certified by the state as a commercial or private pesticide applicator, or without direct supervision by a certified applicator. Commercial certification requires, in part, that the applicant pass a written examination demonstrating knowledge of pesticide product labeling, pesticide hazards, effective measures for preventing overexposure and injury, pesticide application equipment, application techniques, state and federal pesticide laws and regulations, and other subject matter.

Similarly, private agricultural applicators must demonstrate an understanding of product labeling, agricultural pests, application equipment and methods, safety precautions, pesticide poisoning symptoms, and pesticide disposal methods.

Pesticide Storage — No pesticide may be stored where food or feed is likely to become contaminated.

ENFORCEMENT: *Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401).*

● HAWAII PESTICIDES LAW (AERIAL APPLICATORS)

TERMS:

Certification of Aerial Applicators — Aerial pest control applicators must demonstrate knowledge regarding pesticide drift and drift control, weather, aerial equipment and application techniques, and the potential for damage to people, beneficial insects, wildlife, livestock, and non-target plants.

Recertification — To qualify for renewal of an aerial applicator certificate, the holder must complete 25 hours of prescribed training or pass a written examination.

Special Permit — No one may apply a restricted pesticide by aircraft without obtaining a special permit issued by the state agency. Among other requirements that must be met before a permit is issued, the plantation or farm applying for the permit must state the purpose of the aerial treatment, identify the pesticide and dosage to be used, and submit a map or sketch showing the proposed site and the surrounding homes, roadways, waterways and agricultural fields.

Aerial Equipment — Spray equipment must be leakproof and equipped with prescribed pressure control devices and pressure gauges.

ENFORCEMENT: *Pesticides Branch, Plant Industry Division, Hawaii Department of Agriculture, Honolulu, Hawaii 96814 (808-973-9401).*

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

TERMS: Under the authority of the Occupational Safety and Health Law, the state labor department has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ENFORCEMENT: *Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).*

● HAWAII OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

TERMS: Under the Occupational Safety and Health Law, the state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Hawaii's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) but may be applied to any agricultural operation in the state, without respect to the number of workers employed.

ENFORCEMENT: *Occupational Safety and Health Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9110).*

WAGES AND HOURS

● WAGE AND HOUR LAW (*MINIMUM WAGE*)

TERMS:

Minimum Wage — During any workweek in which the employer has at least 20 employees, a worker performing agricultural services generally must receive no less than the state minimum wage for every hour of work that week. The state minimum wage for calendar year 2017 is \$9.25 an hour, and will rise to \$10.10 beginning January 1, 2018.

Exception — The wage and hour law *does not apply* to workers employed in the harvest of coffee.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).*

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to collect the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: If and when the federal minimum wage, which is currently \$7.25 an hour, becomes higher than the state minimum, the state minimum wage will not apply to farmworkers who are covered by the federal minimum wage (*see entry, U.S. — Wages and Hours*).

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE AND HOUR LAW (*HOURS AND OVERTIME*)

TERMS: Except in the harvest of coffee, which is not covered by the wage and hour law, the following overtime pay requirements apply to agricultural employment:

Full Overtime Coverage — Except during a 20-week period of partial exemption each year, explained below, agricultural employers who employ 20 or more workers in a workweek are required to pay their workers at least $1\frac{1}{2}$ times their regular rate of pay for every hour of work in excess of 40 that week.

Partial Overtime Exemption — During any 20 weeks selected by the employer each year, instead of the usual 40-hour workweek and overtime requirement, an agricultural employer with at least 20 employees in any week must pay time-and-a-half only after the worker's first 48 hours on the job that week.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).*

As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid overtime pay, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE PAYMENT LAWS

TERMS:

Paydays — Employers must pay their workers' earnings at least twice each month, on regular paydays designated in advance, unless a different arrangement is approved by the state or adopted by majority vote of the workers in a state-approved secret-ballot election. A worker's wages are payable within 7 days after the end of each pay period.

Final Pay — Whenever an employer lays off or fires a worker, the worker must receive final pay no later than the next regular business day following layoff or termination. A worker who quits the job is entitled to final pay no later than the next regular payday after termination, unless the worker gives at least one pay period's notice of intention to quit, in which case the employer must pay final wages at the time of termination.

Method of Payment — Employers are required to pay wages (1) in lawful U.S. money, (2) with checks exchangeable for cash on demand and at full face value, (3) by direct deposit to the worker's bank account, or (4) with a prepaid debit card; use of a debit card is subject to strict limitations. In the event a worker's paycheck bounces, the employer is responsible for paying any overdraft charges or special handling fee which the worker may be charged as a result of cashing the check.

Withholding of Wages — Employers may not deduct or withhold any part of a worker's earnings, except where required by federal or state law or a court order, or unless authorized in writing by the worker. Certain deductions, however, are not lawful even with the worker's approval, including, among others, (1) fines, penalties, or replacement costs for breakage, (2) losses due to damage to property, and (3) expenses for medical or physical examination, if the examination is requested or required by the employer.

Notices and Pay Statements — Employers must notify their employees at the time of hiring as to the rate of pay and the day, hour and place of payment, and must furnish each worker, on every payday, with a written statement showing the worker's total gross earnings, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE AND HOUR LAW (*PAY STATEMENTS*)

TERMS: In any week in which the employer has at least 20 employees, every worker who performs agricultural labor (other than coffee harvesting) must receive from the employer for every pay period a written notice showing total hours worked, overtime hours (if any), regular pay, overtime pay (if any), other compensation, total gross pay, the amount and purpose of each deduction, total net pay, the date of payment, and the pay period covered.

ENFORCEMENT: *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777).* As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against the employer to enforce these provisions, utilizing a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE INCOME TAX LAW (*WITHHOLDING PROVISIONS*)

TERMS: Farm and plantation operators and other agricultural employers are required to withhold state income tax from their workers' wages, and to forward withheld taxes to the state monthly or quarterly throughout the year.

By January 31 of the following year, employers must provide each worker with a written statement showing the total amount of wages paid and taxes withheld, and send a copy of the annual statement to the state agency by the last day of February.

ENFORCEMENT: *Compliance Division, Department of Taxation, Honolulu, Hawaii 96813 (808-587-1611).* A worker who has reason to believe that taxes are being improperly deducted from wages or incorrectly reported or forwarded to the state agency, or who has not received an annual wage and tax statement from the employer, should contact the nearest district office of the Department.

Idaho

CHILD LABOR

● CHILD LABOR LAW

TERMS:

School Requirements — Children under 16 are not permitted to work during local school hours unless they (1) can read and write simple sentences in English, (2) have received instruction in spelling, English grammar and geography, and (3) are familiar with certain basic arithmetic operations, including fractions. Similar competencies in a language other than English may meet this requirement.

Age and Hour Limitations —

Children Under Age 14 — No child under the age of 14 may be employed on any farm or at any other workplace during the hours in which the local public schools where the child is living are in session. Children under 14 may not be employed or permitted to work more than 54 hours in any one week, more than 9 hours in any one day, or between the hours of 9:00 p.m. and 6:00 a.m. The state child labor law does not impose a minimum age for employment in agriculture.

Children Age 14 and 15 — Individuals 14 and 15 years of age are not permitted to work more than 54 hours a week or more than 9 hours a day, nor before 6:00 a.m. or after 9:00 p.m. Except for the school-related hours limitation above, there are no other state restrictions on the employment of 14- and 15-year-olds in agricultural activities.

ENFORCEMENT: The state child labor law is enforced by county probation officers and local school board trustees.

● SCHOOL ATTENDANCE LAWS

TERMS: With certain limited exceptions, the parent or guardian of any child living in Idaho who has reached the age of 7 at the start of school in the local district, but has not reached the age of 16, must assure that the child attends a public, private or parochial school, or receives approved equivalent instruction, for a period of time equivalent to the length of the public school year.

ENFORCEMENT: These provisions are enforced by the local school boards, in cooperation with county probation officers.

CIVIL RIGHTS

● HUMAN RIGHTS LAW

TERMS: An employer who has 5 or more employees on each working day in 20 or more weeks in the current or previous year is forbidden from discriminating in employment against anyone on the basis of race, color, religion, sex, national origin, age over 40, or disability. In general, employment discrimination includes failing or refusing to hire a job applicant, firing an employee, or discriminating against an individual with respect to pay or the terms, conditions or privileges of employment. Similar acts of discrimination by employment agencies and labor organizations are also prohibited.

ENFORCEMENT: *Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664)*. Anyone who believes that he or she has been subjected to unlawful discrimination under these provisions may file a complaint with the Commission within one year after the alleged unlawful discrimination.

A worker also has the right to sue an employer for employment discrimination in civil court, using a private attorney or a public legal services program, provided that the complaint is first filed with the Human Rights Commission and that the Commission issues a formal notice of dismissal of the complaint. Court action may not be filed any later than 90 days after the Commission's dismissal notice.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (WAGE DISCRIMINATION)

TERMS: With only limited exceptions, it is illegal for an employer to pay wages to any worker at a rate less than the employer pays workers of the opposite sex for essentially equal work on jobs which have equal requirements relating to skill, effort and responsibility. However, wage differences that are paid under a seniority system or merit increase system which does not discriminate on the basis of sex are generally allowable.

ENFORCEMENT: *Idaho Commission on Human Rights, Boise, Idaho 83735 (208-334-2664)*. Workers who have been paid less than the wage to which they are entitled under the anti-discrimination law may file a complaint with the Commission, which may bring legal action on the worker's behalf to collect the unpaid wages.

Instead of filing a claim with the state agency, the law also gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (*EMPLOYMENT CONTRACTS*)

TERMS: It is a criminal offense for an employer to dictate where a worker must live, to specify a particular store at which a worker must purchase goods, or to dictate how or where a worker's wages must be spent, as a condition for hiring or continued employment. It is also illegal for an employer to fire a worker for reasons related to where or with whom the worker lives, where the worker purchases goods, or how or where the worker spends his or her wages.

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

HEALTH AND SAFETY

● FARM WORKER SANITATION FACILITIES LAW

TERMS: In any crop activity in which 8 or more farmworkers are working as a crew or group for a period of 4 or more hours, the farm operator (or, where workers are furnished by a farm labor contractor, the labor contractor) must provide at least one permanent or portable toilet facility for every 40 workers.

The employer or contractor is required to locate toilet units within 1/4 mile of where the workers are working, but where the terrain or other conditions prevent the placement of toilets within this distance, they must be located as close to the workers as a vehicle can get. The facilities must provide privacy and must be kept clean and sanitary by the employer or contractor.

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate against a worker because the worker has reported a violation, filed a complaint, or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor in any 3-month period (calendar quarter) in the current or previous year, or employed at least 10 farmworkers on any day in 20 or more different weeks this year or last, is required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers who have accumulated the necessary wage credits from working for one or more such employers, and who meet other program requirements, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570).* A worker who is totally or partially unemployed may file an application for benefits online, at labor.idaho.gov/ClaimantPortal.

● WORKER'S COMPENSATION LAW

TERMS: For their employees who are injured on the job, most farm operators and other employers in Idaho are required to cover the cost of related medical treatment and rehabilitation, cash payments to replace lost wages, and related benefits. Employers usually meet that obligation by purchasing a workers' compensation insurance policy, or by documenting their ability to cover compensation claims directly.

ENFORCEMENT: *Idaho Industrial Commission, Boise, Idaho 83720 (208-334-6000).*

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CONTRACTOR LICENSING LAW

TERMS: Individuals who charge a fee or receive other compensation for recruiting, soliciting, hiring, employing, furnishing or transporting any migrant or seasonal agricultural worker, must obtain a farm labor contractor license from the state and comply with other requirements and restrictions.

Licensing — No one may act as a farm labor contractor without obtaining a license to do so from the state labor department. As conditions for issuing the license, the applicant must provide information that will enable the department to confirm the person's fitness, competency and qualifications to engage in the farm labor contracting business.

Financial Responsibility — Farm labor contractors must have insurance or post a bond of at least \$10,000 (\$30,000 if they employ more than 20 workers), to cover liability to the workers for any unpaid wages or other damages.

Duties — Among many other duties, farm labor contractors must:

- (1) Carry their contractor license with them at all times.
- (2) Promptly pay their workers and others with whom they do business as a contractor.
- (3) Provide their workers — at the time they are recruited, hired or sent to a worksite — a written statement detailing the wage or piece rate to be paid, the terms and conditions of the job, any housing or other facilities to be provided, and the workers' rights, including the right to make a claim against the contractor's insurance or bond.
- (4) Provide the workers with a written pay statement — at the time of each payment — itemizing the total amount of pay, the amount and purpose of each deduction, the hours worked, and the number of units of production if paid on a piecework basis.

Recordkeeping — Contractors must make a record, and keep it for at least 3 years, of each worker's wages, hours, total earnings, pay deductions, and work locations.

Prohibited Acts — Among other things, it is illegal for a farm labor contractor, or an applicant for a contractor license, to:

- (1) Make false or misleading statements on the license application.
- (2) Make a false, fraudulent or misleading statement to any person, or to circulate or publish false or misleading information concerning the terms, conditions or existence of any employment.
- (3) Use force, intimidation or a threat — including a threat of deportation — to induce workers to give up any part of the wages to which they are entitled.

ENFORCEMENT: *Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570).*

SPECIAL NOTE: It is illegal for a farm labor contractor to fire or discriminate in any other way against a worker because the worker made a claim against the contractor, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

PESTICIDES AND AGRICULTURAL CHEMICALS

● STATE PESTICIDE LAWS

TERMS:

Licensing — No one may apply any pesticide in Idaho for hire without being licensed by the state as a commercial applicator, and agricultural producers using restricted pesticides on their own crops must be licensed as private applicators. Among other conditions on issuance of a license, commercial pesticide applicators are required to pass an examination to demonstrate knowledge of proper handling and application of pesticides, and to provide a bond, cash deposit or proof of insurance covering damages resulting from handling or use of pesticides. Private agricultural applicators must successfully complete an examination also before a license is issued.

Prohibited Acts — Among other unlawful acts, it is illegal for a person to use a pesticide product in a manner contrary to instructions on the label, to operate faulty or unsafe pesticide spraying equipment, to apply pesticides in a faulty or careless manner, or to fail or refuse to maintain required records or make required reports.

ENFORCEMENT: *Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613).* Anyone who suffers injury or damage from someone else's use of a pesticide should report the incident to the Department within 60 days after it occurs. The agency may investigate the complaint to determine the nature and extent of the injury or damage, and the agency must prepare a written report of its investigation.

● STATE PESTICIDE LAWS (AERIAL APPLICATORS)

TERMS: During pesticide spray operations from the air, pilots are prohibited from turning or flying low over towns or heavily populated areas without written authorization, or directly over an occupied structure (such as a housing facility or school) without permission from the owner of the structure. Aerial pesticide application is forbidden at any location when the sustained wind speed is over 10 miles per hour, when wind conditions are outside safe limits as specified on the pesticide product label, or when wind conditions could cause drift beyond the area intended for treatment.

ENFORCEMENT: *Enforcement Program, Division of Agricultural Resources, Idaho State Department of Agriculture, Boise, Idaho 83712 (208-332-8613).*

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage — With some exceptions, agricultural workers in Idaho are entitled to be paid no less than the state minimum wage, which is currently \$7.25 an hour.

Exceptions — The Idaho minimum wage *does not apply* to:

- (1) Workers over the age of 16 who (a) are employed as hand harvest workers, (b) are paid on a piecework basis, in an operation customarily paid on a piecework basis in the region of employment, (c) commute to the farm daily from their permanent residence, and (d) were employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Hand-harvest workers 16 years old or younger who are working piecework on the same farm as their parents, and on the same piecework basis as workers over age 16.

ENFORCEMENT: *Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570).* Workers who have not received the minimum wage to which they believe they are entitled should contact the Department's nearest labor compliance officer.

SPECIAL NOTE: It is illegal for an employer to fire or discriminate in any other way against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

● STATE LIEN LAWS (CLAIMS FOR WAGES)

TERMS:

Pay Periods — Employers in Idaho must pay their workers' wages at least once each calendar month, on regular paydays designated in advance. In general, a designated payday may not be more than 15 days after the end of the pay period for which payment on that day is to be made. If the regular payday falls on a non-workday, payment must occur on the preceding workday.

Method of Pay — Wages must be paid in lawful U.S. currency, by check drawn on banks where suitable arrangements are made for cashing at no charge to the worker, or by direct deposit to an account voluntarily selected by the worker.

Withholding of Wages — No employer may withhold or divert any portion of a worker's wages, unless the employer is required or authorized to do so by state or federal law, or the employer has written authorization from the worker to make such a deduction for a lawful purpose. For each pay period for which deductions from the worker's pay are made, the employer must provide the worker with an itemized statement of each such deduction.

Wage Claims — A worker with a claim for unpaid wages in an amount up to \$1,000 may request the state enforcement agency to take legal action on his or her behalf to collect the unpaid wages in court. A judgment in favor of the worker may include, in addition to the unpaid wages, reasonable attorney's fees and court costs, plus damages of up to three times the amount of the unpaid wages.

ENFORCEMENT: *Wage and Hour Bureau, Idaho Department of Labor, Boise, Idaho 83735 (208-332-3570).*

If the claim involves more than \$1,000 in unpaid wages, the worker has the right to file a civil lawsuit against the employer directly, using a private attorney or public legal service provider.

SPECIAL NOTE: It is illegal for an employer to fire or discriminate in any other way against a worker because the worker made a claim, testified in a proceeding, or discussed or consulted with anyone concerning the worker's rights under this law.

● STATE LIEN LAWS (*FARM LABORER'S LIEN*)

TERMS: Any person who cultivates, harvests or performs any similar agricultural labor on a farm has a right to a portion of the income from the sale of the crops involved whenever the farm operator or landowner fails or refuses to pay the worker's wages.

No later than 120 days after the work is finished, a farmworker who has not been paid in full may file a claim, or lien, with the Idaho Secretary of State's office. The notice must specify that the claim is a farm laborer's lien and must include the name and address of the farm operator, the name and address of the worker, the county or counties where the crop was grown, the name of the crop involved, and the amount of the claim.

Using a private attorney or a public legal services program, the worker must then file a civil suit against the farmer or landowner to enforce the lien, which generally is valid for up to 12 months after the claim is filed.

ENFORCEMENT: *Office of the Secretary of State, Boise, Idaho 83720 (208-334-3191).*

● IDAHO INCOME TAX ACT

TERMS: A farmer or other farming establishment in Idaho that (1) earns at least 2/3 of its gross income from farming and (2) pays or expects to pay a worker at least \$1,000 in wages, bonuses and other compensation during the year, must deduct and withhold state income tax from the worker's wages and forward the taxes to the state for credit against the worker's state income tax liability.

No less than 30 days after the end of the year, the employer must provide the worker with a record of the amount of tax withheld and send a copy of the employee tax statement to the state agency.

ENFORCEMENT: *Idaho State Tax Commission, Boise, Idaho 83722 (208-334-7660).*

SPECIAL NOTE: Even when a farm employer is not required to deduct state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Illinois

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Age Restrictions —

Children Under Age 12 — With few exceptions, minors under the age of 12 years may not be legally employed in any agricultural occupation.

Children Age 12-15 — Children 12 through 15 years of age (inclusive) may generally be employed in agriculture only outside school hours and during school vacation periods.

Children Age 16 and Over — There are no state restrictions on agricultural employment for workers 16 years of age and older.

Hours of Work — Children 12 to 15 years of age may be employed only outside school hours and during school vacation periods. During those times, they may work for up to 6 days or 48 hours in any one week, and up to 8 hours in any one day. They may not be employed between the hours of 7:00 p.m. and 7:00 a.m. from Labor Day until June 1, or between 9:00 p.m. and 7:00 a.m. from June 1 to Labor Day.

On days when school is in session, work outside school hours is generally limited to no more than 3 hours, and the combined time in school and on the job may not exceed 8 hours.

Meal Periods — No child under 16 is allowed to work for more than 5 hours straight without a meal period of at least 30 minutes. Any break of less than 30 minutes counts as part of the continuous 5-hour work period.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2804).* The Child Labor Law may also be enforced by truant officers and other school district officials.

● COMPULSORY SCHOOL ATTENDANCE LAWS

TERMS: With only limited exceptions, whoever has custody or control of any child who has reached the age of 6 on or before September 1 and is not over the age of 17 must see that the child attends a local public school (or a private school providing comparable instruction) for the entire time it is in session during the regular school term.

ENFORCEMENT: These provisions are enforced by school districts and regional school superintendents, through truant officers and other designated authorities.

CIVIL RIGHTS

● ILLINOIS HUMAN RIGHTS ACT

TERMS: Employers who have 15 or more employees during 20 or more weeks this year or last are subject to the employment discrimination provisions of the Human Rights Act, as outlined below. With respect to violations based on a worker's physical or mental disability, the Act applies to any employer with one or more employees for any length of time.

Civil Rights Violations — It is a civil rights violation for an employer who is subject to this law to refuse to hire a job applicant, to segregate an employee, or to otherwise discriminate with respect to terms and conditions of employment on the basis of an applicant's or employee's race, color, religion, national origin, ancestry, age, sex, marital status, order-of-protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service. Similar acts committed by employment agencies and labor organizations are also unlawful.

Language — It is considered a civil rights violation for an employer to prohibit a language from being spoken by an employee in communications that are unrelated to the employee's duties.

Sexual Harassment — It is a civil rights violation for any covered employer (1) to engage in sexual harassment against an employee, or (2) to permit sexual harassment of an employee by any non-employee or by a non-managerial or non-supervisory employee without taking reasonable steps to stop it.

Arrest Record — In general, it is a civil rights violation for an employer to inquire on a written job application whether an applicant has ever been arrested.

Among other exceptions, the Act does not prohibit employers from hiring or selecting between persons on the basis of bona fide occupational qualifications, or from applying different standards of pay or different employment conditions under a merit or retirement system, as long as the system is not used to get around the anti-discrimination purposes of the law.

ENFORCEMENT: *Illinois Department of Human Rights, Chicago, Illinois 60601 (312-814-6200).* A worker who has been subjected to unlawful employment discrimination may file a complaint with the Department at any time within 180 days after the violation occurred.

SPECIAL NOTE: It is illegal for an employer to retaliate against an employee or a job applicant because the employee or applicant has opposed unlawful discrimination or sexual harassment, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act.

● EQUAL PAY ACT OF 2003

TERMS: In general, no employer in Illinois may discriminate between employees on the basis of sex, by paying wages to one worker at a rate less than the rate the employer pays to another worker of the opposite sex for the same or substantially similar work, on jobs that require equal skill, effort and responsibility and are performed under similar working conditions.

Different wage rates are generally acceptable, however, when payment is made under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other system that is based on any other factor other than sex.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2808).*

As an alternative to filing a complaint with the Department, a worker affected by wage discrimination under the Equal Pay Act may take legal action against the employer directly, using a private attorney or public legal service provider. Legal action to recover under-paid wages under the Act must be filed within 5 years from the date of the under-payment.

SPECIAL NOTE: It is unlawful for an employer to interfere with, fire, or in any other way discriminate against a worker for having filed a complaint, given information, testified or exercised any other right granted by this law.

HEALTH AND SAFETY

● FIELD SANITATION ACT

TERMS: Every farming operation in which 10 or more workers are employed in planting, cultivating or harvesting food or nursery products, is required to provide toilets, handwashing facilities and drinking water at each such job site. All such facilities must be readily accessible to the workers, in no case farther than 1/4 mile from any worker.

It is illegal for anyone to deny workers the use of the required toilet, handwashing and drinking facilities.

Toilets — There must be at least one toilet for every 35 workers. Each facility must provide privacy and allow proper ventilation, and must be maintained in clean and sanitary condition. Each unit must be supplied with toilet paper.

Handwashing Facilities — Handwashing facilities, consisting of at least one unit for every 35 workers, must include a supply of clean water, soap, and disposable towels or equivalent means of drying.

Drinking Water — Sanitary drinking water, in sufficient quantities for all workers throughout the workday, must be provided in covered containers equipped with drinking-fountain attachments or stocked with individual sanitary drinking cups.

ENFORCEMENT: *Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830).*

As an alternative to filing a complaint with the state agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HOUSING

● ILLINOIS MIGRANT LABOR CAMP LAW

TERMS:

Fully Regulated Facilities — Migrant labor camps consisting of one or more buildings, structures, tents, trailers or vehicles established or operated as living quarters for 10 or more migrant agricultural workers, or for 4 or more families containing such migrant workers, are subject to requirements and detailed quality standards contained in the state public health regulations.

Licensing — No one may operate a migrant labor camp, as defined above, without first obtaining a license from the state. To qualify for a license, a camp operated for a total of 21 days or more in any calendar year must meet the minimum standards outlined below.

Inspection — The state licensing agency is required to inspect each camp at least one time before the migrant workers to be housed arrive and at least once while the camp is occupied.

Minimum Standards — Among many other factors considered in determining if a housing facility meets the standards specified in the state regulations are these:

- The camp location and site
- The construction and condition of the housing structures
- The water supply
- Toilet facilities
- Bathing facilities
- Laundry facilities
- Cooking and eating facilities
- Sleeping accommodations
- Fire and safety provisions
- Electric service and fixtures
- Heating equipment
- Garbage and trash facilities

Partially Regulated Facilities — Migrant labor camps used as living quarters for fewer than 10 migrant agricultural workers, or for fewer than 4 migrant families, are not required to be licensed, but they must meet the same construction and equipment standards outlined above and are subject to periodic inspection.

ENFORCEMENT: *Division of Environmental Health, Illinois Department of Public Health, Springfield, Illinois 62761 (217-782-5830).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the housing operator in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● CRIMINAL CODE OF 2012 (*CRIMINAL TRESPASS*)

TERMS: A migrant farmworker or anyone else who lives on private property with permission of the owner (or with permission of a labor contractor or other agent of the owner having authority to hire workers and assign them housing) is entitled to freely enter and leave the property without regard to the state law against trespassing.

Likewise, the trespassing law does not apply to anyone invited by a migrant worker living on private property to visit the worker at the place where the worker is living.

ENFORCEMENT: The migrant worker's right of access and visitation may be enforced only in the state civil courts. Any worker who has not been allowed to freely come and go at his or her living quarters on private property, or whose guests have been denied such access, should contact a private attorney or a public legal services program.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT INSURANCE ACT

TERMS: Any agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more agricultural workers for any length of time in 20 or more weeks this year or last, is required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. In addition to basic weekly benefits, workers may also be eligible for a dependents' allowance.

ENFORCEMENT: *Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427).* An application for unemployment benefits may be made at any local Employment Security office, or online at www.ides.illinois.gov.

● WORKERS' COMPENSATION ACT

TERMS: A farm operator or other agricultural employer who used at least 400 worker-days of agricultural labor in all four calendar quarters of the preceding calendar year (for example, 40 workers employed for 10 days, 20 workers employed for 20 days, or any similar combination occurring from January through March, April through June, July through September, or October through December), is required to have workers' compensation insurance or equivalent coverage acceptable to the state.

Farmworkers who are injured while working for such an employer are entitled to immediate medical treatment and related services, as well as weekly cash benefits to compensate for loss of income if disability results from the injury.

ENFORCEMENT: *Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611).* To protect the right to workers' compensation benefits, a worker who is injured while on the job must notify the employer as soon as possible, but in no case later than 45 days after the accident occurred.

● WORKERS' OCCUPATIONAL DISEASES ACT

TERMS: Except for farming operations that used less than 400 worker-days of agricultural labor in all four calendar quarters of the preceding year, farm operators and other agricultural establishments must obtain occupational disease compensation insurance or have equivalent coverage for their employees.

A farmworker who, while working for such an employer, is disabled by a disease directly related to the employment may be eligible for cash disability payments, medical and hospital care, rehabilitation services, and related benefits. If the disease leads to the worker's death, the worker's surviving dependents are generally eligible for income benefits and burial expenses.

ENFORCEMENT: *Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611)*. Notice of disablement from an occupational disease must be given to the employer as soon as possible after onset of the disease or its symptoms.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY ACT

TERMS: No private employment agency may recruit any migrant farmworker for any farm employer unless the agency first files a statement with the state, explaining the terms and conditions of the job and the existence of any strike or similar labor activity at the job site. A copy of the statement, in English and the language normally spoken by the worker, must be given to each worker by the private employment agency prior to recruitment.

Along with the statement of employment conditions, a private employment agency recruiting migrant farmworkers must also provide each recruited worker with a written summary of state employment laws related to the upcoming employment. The law summary, in English and the language normally spoken by the worker, must include an explanation of the laws governing payment of wages, wage deductions, and migrant labor camps.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810)*.

SPECIAL NOTE: It is unlawful for a private employment agency to retaliate or discriminate in any other way against a worker for having filed a complaint, given information, testified or exercised any other right granted by this law.

● PUBLIC EMPLOYMENT OFFICE ACT

TERMS: No employer in Illinois may utilize the state employment service to recruit migrant farmworkers unless the employer files a statement with the state agency revealing the terms and conditions of the job and the existence of any strike or other labor action by the employer's workers at the proposed job site. Prior to recruitment, the employer must give each farmworker a copy of the statement, in English and any other language easily understood by the worker, and must post the statement in plain sight at the job site or the worker's place of residence.

Each migrant farmworker recruited for employment must be given a written summary of all state laws related to the worker's employment, including, among others, the provisions regarding wage payments, wage assignments, and migrant labor camps. The summary must be in English and any other language easily understood by the worker.

ENFORCEMENT: *Illinois Department of Employment Security, Springfield, Illinois 62702 (773-412-8427)*.

PESTICIDES AND AGRICULTURAL CHEMICALS

● ILLINOIS PESTICIDE ACT

TERMS: The Illinois Pesticide Act regulates the labeling, distribution, use and application of pesticides in the state.

Certification and Licensing —

Commercial Applicators — No one who owns or manages a pesticide application business may purchase, use or supervise the use of any pesticide without a commercial applicator license issued by the state. Among other licensing requirements, a commercial applicator must be certified as having successfully demonstrated competence and knowledge regarding pesticide use; recertification for competence is required at least once every 3 years. Commercial applicator license applicants must also present evidence of financial responsibility, protecting persons who may suffer injury or property damage as a result of the applicant's pesticide operations, by posting a \$50,000 surety bond or purchasing a prescribed liability insurance policy, with limits of at least \$100,000 for bodily injury and property damage.

Licensed Operators — No one employed to apply pesticides under the direction of a licensed commercial applicator may use any pesticide without a pesticide operator license. Among other conditions, a license may not be granted unless the operator is certified as to competence and knowledge regarding the use and application of pesticides.

Private Applicators — Farm operators may not apply or supervise the application of any restricted pesticide on their own crops without being certified as private applicators. Like commercial applicators, private applicators must demonstrate knowledge and competence concerning the use of the pesticides they will be applying and must meet other certification requirements prescribed by state regulation.

Unlawful Acts — Among many others, the following practices are violations of the Act:

- (1) Application of pesticides in a faulty, careless or negligent manner.
- (2) Use of a pesticide in a manner contrary to the product label.
- (3) Failure to keep required records or file required reports.
- (4) Handling, storing, using or disposing of pesticides or used pesticide containers in a way that would endanger human life, the environment, or food, feed or other products.

ENFORCEMENT: *Pesticide Regulation Division, Illinois Department of Agriculture, Springfield, Illinois 62794 (217-785-8312).*

● TOXIC SUBSTANCES DISCLOSURE TO EMPLOYEES ACT

TERMS:

Material Safety Data Sheets — Every farm operator or other employer with 5 or more full-time employees in the state, or with 20 or more full- or part-time employees anywhere and at any time throughout the year, is required to obtain prescribed written safety information about each toxic substance stored or used in the employer's workplace. This information, known as a "material safety data sheet," includes such facts as the name of the substance, its hazards, the symptoms of exposure, precautions for safe use, and emergency first-aid measures.

Worker's Right to Information — Anyone working for such an employer has a right to receive a copy of the material safety data sheets maintained by the employer, within 10 days of the worker's written request. The employer must advise the worker in writing of any hazardous substance in the workplace for which no data sheet is available, must request the missing data from the supplier within 10 days, and must mail the information to the worker within 10 days following receipt from the supplier.

Posting and Labeling — Employers are required to post a sign at the workplace informing workers of their rights under the Act, and to either attach a warning label to each toxic substance container or post signs or operating instructions providing similar information.

Worker Education and Training — The Act also requires the affected employers to provide their workers with an education and training program regarding the toxic substances to which they are routinely exposed in the course of their work.

ENFORCEMENT: *Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2800).*

SPECIAL NOTE: An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage — With certain exceptions, agricultural employers who used more than 500 worker-days of agricultural labor in any calendar quarter during the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any similar combination) are required to pay adult workers no less than \$8.25 for every hour of labor.

Likewise, most workers under 18 years of age employed by such an employer are entitled to receive at least \$7.75 an hour.

Exceptions — The Minimum Wage Law *does not apply* to agricultural workers in the following categories:

- (1) Workers who (a) are employed as hand-harvest laborers on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) commute daily from their permanent place of residence to the worksite, and (c) were employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Workers 16 years of age or younger who (a) are employed as hand-harvest laborers on a piece-rate basis, in an operation historically regarded as a piecework operation in the region, (b) are employed on the same farm as their parents or guardian, and (c) are paid the same piece rate as workers over the age of 16 are paid on the same farm.

Recordkeeping — Illinois employers are required to keep accurate payroll records on each worker covered by the minimum wage. Records must include, at a minimum, (1) the name, address and occupation of each worker, (2) the wage rate, (3) the amount paid each pay period to each worker, and (4) the hours worked each day in each workweek by each worker.

Posting — Employers subject to the Minimum Wage Law must post a summary of the law and the associated regulations in a prominent location accessible to the workers.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810).*

As an alternative to filing a wage claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

● ONE DAY REST IN SEVEN ACT

TERMS: Farmworkers who work or are expected to work at least 7½ hours straight on a particular day are entitled to a meal period of at least 20 minutes, beginning no later than 5 hours after the start of the workday.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810).*

● ILLINOIS WAGE PAYMENT AND COLLECTION ACT

TERMS:

Paydays and Pay Periods — Farm operators and most other employers in Illinois are required to pay their workers' wages at least twice a month. All wages earned by an employee during a half-monthly or 2-week pay period must be paid no later than 13 days after the end of the pay period in which the wages are earned. Wages earned during a weekly pay period must be paid within 7 days of the close of the period. Workers paid daily should receive their wages on the same day they are earned, but in no case more than 24 hours later.

Final Pay — Workers who quit, or who are dismissed or laid off, should receive their final pay at the time the job ends, but in no case may an employer fail to pay final wages by the next regularly scheduled payday.

Method of Pay — Workers' wages must be paid (1) in lawful U.S. currency, (2) by check, which can be cashed on demand and at full face value at a readily accessible bank or similar institution, (3) by direct deposit to a bank account of the worker's choosing, or (4) with a payroll card that meets strict state-prescribed requirements.

Deductions — Employers normally may not make any deduction from a worker's pay unless the deduction is required by law, is intended for the worker's benefit, or is made with the worker's written consent.

Pay Statements — Employers are required to furnish each worker with an itemized statement of deductions made from the worker's pay for each pay period.

Recordkeeping — Employers must keep a record of the names and addresses of all employees and of the wages paid each payday.

Disclosures and Posting — At the time of hiring, employers must notify each worker as to the rate of pay and the time and place of payment. Whenever any of these conditions changes, the worker must be advised in advance. Employers must also keep posted at each regular place of business, at a location easily accessible to the workforce, a notice identifying the regular paydays and the place and time of payment.

ENFORCEMENT: *Fair Labor Standards Division, Illinois Department of Labor, Chicago, Illinois 60601 (312-793-2810).* A worker who has not been paid all or any part of wages earned may file a claim with the Department.

As an alternative to filing a wage claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● ILLINOIS WAGE ASSIGNMENT ACT

TERMS: With few exceptions, it is illegal for any person or business to collect a loan or other debt by deducting payments from a worker's wages — commonly known as a "wage assignment" — unless the agreement to do so is made in writing. The wage assignment agreement must be signed by the worker and must show the name of the employer, the amount of money loaned or the price of the goods sold, the interest rate to be paid, and the dates payments are due.

A person or business is not allowed to demand payment of a worker's debt through a wage assignment unless (1) the worker has failed to make a payment for more than 40 days, and (2) the person or business has notified the worker and the employer at least 20 days beforehand of its intention to demand payment.

Among other restrictions on such arrangements, the amount of wages that may be collected under a lawful wage assignment for any workweek may not exceed 15 percent of the worker's gross earnings that week, and in no event may a wage assignment in any week leave a worker with less than 45 times the state or federal minimum wage, whichever is higher (\$371, at the current state minimum wage of \$8.25).

ENFORCEMENT: The rights provided under this law may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

SPECIAL NOTE: It is illegal for an employer to fire or suspend a worker because the worker's wages have been subjected to a wage assignment.

● ILLINOIS INCOME TAX ACT

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year, the employer must provide each worker from whom state income tax was withheld a statement showing the total amount of wages paid and the amount of state income tax withheld from the worker's pay during the previous calendar year.

ENFORCEMENT: *Illinois Department of Revenue, Springfield, Illinois 62794*. For taxpayer assistance, the Department of Revenue may be reached without charge from anywhere in the state, at 800-732-8866.

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Indiana

CHILD LABOR

● CHILD LABOR LAWS

TERMS: In general, no child under the age of 12 may be employed in agricultural activities. As long as work does not occur during school hours and is not in an occupation deemed hazardous by the U.S. Department of Labor (*see entry, U.S. — Child Labor*), there are no other state restrictions on the employment of minors in agriculture.

ENFORCEMENT: *Bureau of Child Labor, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655)*.

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With few exceptions, each child who is at least 7 years of age and has not reached the age of 18 must attend either a public school or some other school which is taught in the English language, for the period of time each year during which the local public schools are in session. It is unlawful for a parent to fail to ensure that his or her child attends school as required.

ENFORCEMENT: This law is enforced by attendance officers employed by the local school districts.

CIVIL RIGHTS

● INDIANA CIVIL RIGHTS LAW

TERMS: With only limited exceptions, employers who have 6 or more workers are prohibited from practicing employment discrimination by (1) excluding a person from equal employment opportunities because of race, religion, color, sex, disability, national origin, ancestry, or veteran status, (2) failing to employ an applicant on the basis of the applicant's race, religion, color, sex, disability, national origin, ancestry, or veteran status, (3) failing to reasonably accommodate an employee with a disability, (4) failing to accommodate an employee for bona fide religious practices, or (5) creating or failing to take action to deal with a hostile work environment or stop sexual harassment. Similar acts of employment discrimination by employment agencies and labor organizations are also forbidden.

It is generally not unlawful for an employer to hire workers, for an employment agency to classify or refer job applicants, or for a labor organization to classify its membership or refer any member for employment, on the basis of sex in those situations where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business involved.

ENFORCEMENT: *Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909).* A worker who has been subjected to an act of unlawful employment discrimination normally has 180 days from the date the act took place to file a complaint with the Commission.

Workers have the right to enforce the Civil Rights Law in court rather than through administrative action by the Civil Rights Commission. However, both the employee and the employer involved in the complaint must agree in writing to have the matter decided in court.

● EMPLOYMENT DISCRIMINATION AGAINST DISABLED PERSONS LAW

TERMS: It is unlawful for an employer with at least 15 employees for each working day in 20 or more calendar weeks this year or last to discriminate against a qualified person with a disability on the basis of the person's disability, in regard to:

- Job application procedures
- Hiring
- Training
- Advancement
- Firing
- Other terms and conditions of employment

Similar prohibitions apply to employment agencies and labor organizations.

ENFORCEMENT: *Indiana Civil Rights Commission, Indianapolis, Indiana 46204 (317-232-2600; toll-free 800-628-2909).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state occupational safety standards commission has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*), and apply to all farm operations in the state (*please see special notes below*).

ENFORCEMENT: *Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605).*

SPECIAL NOTE: The state enforcement agency is generally prohibited from conducting enforcement inspections on the property of any farm establishment that employs 10 or fewer workers, unless (1) the agency is responding to a specific complaint by a worker employed there, or (2) the farm establishment operates a labor camp.

SPECIAL NOTE: An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

HOUSING

● AGRICULTURAL LABOR CAMPS LAW

TERMS:

Permits — No person, firm or association may operate a facility to house 5 or more adult seasonal or temporary agricultural workers (including related food processing workers) without first obtaining an agricultural labor camp permit from the state. A labor camp permit may not be issued unless the camp has been inspected by the state within the 60-day period immediately before the camp is occupied.

Inspection Standards — In order to qualify for a permit, such a facility must meet detailed sanitation and safety standards included in the state health department regulations. Among other factors considered in determining if a housing facility meets state standards are these:

- The housing site
- The water supply
- The sewage disposal system
- Living space and the condition of the structures
- Screening on outside doors and windows
- Heating equipment
- The electrical system and lighting
- Toilet and bathing facilities
- Laundry facilities
- Cooking and eating facilities
- Sleeping arrangements
- Garbage and trash equipment and procedures
- Safety equipment and procedures

ENFORCEMENT: *Environmental Public Health Division, Indiana State Department of Health, Indianapolis, Indiana 46204 (317-233-7183).*

INSURANCE AND COMPENSATION

● INDIANA EMPLOYMENT AND TRAINING SERVICES ACT (*UNEMPLOYMENT COMPENSATION*)

TERMS: Farm operators and other agricultural employers who paid cash farm wages amounting to \$20,000 or more during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more farmworkers for some part of a day in 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. An eligible claimant's weekly benefit amount is normally equal to 47 percent of the worker's average weekly wage over the year before applying for benefits, up to a maximum amount of \$390.

ENFORCEMENT: *Unemployment Insurance Division, Indiana Department of Workforce Development, Indianapolis, Indiana 46204 (317-232-7676).* An application for unemployment benefits may be filed at any WorkOne Career Center, or online at uplink.in.gov/CSS/CSSLogon.htm.

SPECIAL NOTE: In determining a worker's eligibility for unemployment benefits, as well as the amount of those benefits, any earnings from an employer considered "seasonal" (such as certain farm operators or agricultural processors, for example) are counted only if the worker is unemployed during the employer's normal seasonal employment period. If the worker files a unemployment claim outside the employer's normal operating season, only wage credits earned from other employers (if any) can be considered.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS: It is illegal for any person, company or association, for a fee or profit, to arrange jobs for workers, provide workers to employers, or give information as to where jobs or workers may be obtained, without first being licensed by the state as an employment agency. Every applicant for such a license must post a \$1,000 bond, pay a \$150 annual license fee, and meet certain business and professional standards before a license will be granted.

Among numerous other restrictions, it is unlawful for anyone operating as an employment agency or agent to refer a worker to a job, or collect any fee from a worker, without having obtained a valid job order or offer, or to refer any worker to a job site where a strike is known to exist without notifying the worker of such condition. Likewise, employment agencies and employment agents may not circulate any false or misleading notice, or give any false or misleading information, concerning work or the availability of employment.

ENFORCEMENT: *Special Investigation Unit, Indiana Department of Revenue, Indianapolis, Indiana 46204 (317-232-5977).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE USE AND APPLICATION LAW

TERMS:

Pesticide Business Licenses — Anyone who owns, operates or manages a business engaged in using any pesticide for hire must obtain a license to do so. Among other requirements, licensed pesticide businesses generally must post a bond or have liability insurance with a coverage limit of at least \$300,000 for bodily injury and property damage, to protect persons who may suffer legal damages as a result of their pesticide operations.

Commercial Applicator Licenses — No one may apply pesticides to another person's property for hire without a commercial pesticide applicator license issued by the state. Among other conditions for receipt of a license, the applicant must demonstrate knowledge of the use and effects of the kinds of pesticides the applicant intends to apply.

Private Applicator Permits — The law requires agricultural producers and their employees who wish to apply certain hazardous pesticides on the producer's own farm to obtain a private applicator's permit and to be certified as qualified to do so.

Prohibited Practices — The state may deny, suspend or cancel a pesticide license or permit if the applicant, licensee or permit-holder has used pesticides contrary to the product label, operated unsafe equipment, operated carelessly, failed to keep required records or make required reports, or committed other prohibited acts. It is illegal to transport, store or dispose of a pesticide or pesticide container in such a way as to cause injury to humans, vegetation, livestock or beneficial insects.

ENFORCEMENT: *Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492).*

● INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

TERMS: Under the authority of Indiana's occupational safety and health law, the state occupational safety standards commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all farm operations in the state (*please see special notes below*).

ENFORCEMENT: *Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605).*

SPECIAL NOTE: The state enforcement agency is generally prohibited from conducting enforcement inspections on the property of any farm establishment that employs 10 or fewer workers, unless (1) the agency is responding to a specific complaint by a worker employed there, or (2) the farm establishment operates a labor camp.

SPECIAL NOTE: An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

● **AGRICULTURAL AMMONIA LAW**

TERMS: Tanks used to transport anhydrous ammonia (a common agricultural fertilizer) to and from the fields, or to apply ammonia to the soil, must be constructed according to detailed state specifications and must be properly equipped with gauges, valves, hoses and other fittings. State regulations also require that each ammonia container be labeled with certain identifying markings and emergency information.

Tanks used for on-farm transportation or application of ammonia must be securely attached to the trailer, tractor or other farm vehicle on which they are mounted. Every trailer carrying an ammonia field storage tank is required to carry a container of 5 gallons or more of fresh water for use in case of accidental exposure of a worker.

ENFORCEMENT: *Pesticide Section, Office of Indiana State Chemist, Purdue University, Lafayette, Indiana 47907 (765-494-1492).*

● **INDIANA OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)**

TERMS: Under the occupational safety and health law, the state occupational safety standards commission has adopted standards for the storage and handling of anhydrous ammonia. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all farm operations in the state (*please see special notes below*).

ENFORCEMENT: *Indiana Occupational Safety and Health Administration, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-233-3605).*

SPECIAL NOTE: The state enforcement agency is generally prohibited from conducting enforcement inspections on the property of any farm establishment that employs 10 or fewer workers, unless (1) the agency is responding to a specific complaint by a worker employed there, or (2) the farm establishment operates a labor camp.

SPECIAL NOTE: An employer may not fire, discipline or in any other way discriminate against a worker because the worker files a complaint, testifies in a related proceeding, or exercises any other right under this law.

TRANSPORTATION

● **SCHOOL TRANSPORTATION LAWS (USE OF SCHOOL BUSES)**

TERMS: Any local school board may permit the use of its school buses for the transportation of agricultural workers who are involved in producing or harvesting crops, but any bus used for that purpose may transport only school children, enrolled college students, a supervisor, and the bus driver. When used to transport farmworkers, a bus must display a sign with the words "Agricultural Workers" in large letters, at the front and rear of the vehicle.

Each school bus used to transport agricultural workers must meet specified insurance and safety requirements.

ENFORCEMENT: These provisions are enforced by local school districts, and by state and local law enforcement agencies.

WAGES AND HOURS

● **WAGE AND HOUR LAWS (WAGE PAYMENTS)**

TERMS:

Wage Deductions — Employers are not permitted to make any deduction from a worker's pay at the worker's request, unless the deduction is for insurance premiums, repayment of a loan made by the employer, or similar authorized purposes, and unless a written agreement to make the deduction has been signed by the worker. The employer has to agree to the arrangement, and the worker may cancel the agreement at any time.

Deductions to Repay Loans — Any arrangement under which wages are withheld to repay a loan made by someone other than the employer is not valid unless the deduction is for a fixed percentage of the worker's earnings and the arrangement covers a period not longer than 30 days. Any interest charged by the person or establishment making the loan may not exceed an annual rate of 8 percent. An agreement to assign wages is generally not valid without the signature of the worker's spouse, if any.

Illegal Sales and Fines — It is unlawful for employers to knowingly sell to any of their employees any merchandise or supplies at a higher price than the price at which the merchandise or supplies are sold to others for cash. It is also illegal for an employer to fine a worker for any reason and then collect the fine from the worker's wages.

Penalty for Failure to Pay Wages — An employer who fails to pay a worker his or her wages within 10 days after demand for payment not only is responsible for the unpaid wages, but is subject to a penalty of \$1 for each day the wages remain unpaid after the 10-day period. The penalty, up to *double* the amount of the wages due, is payable to the worker.

ENFORCEMENT: *Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655).* A worker who has had an employer-imposed fine deducted from pay may report the violation to the Department.

The other protections outlined above may be enforced only through court action by the worker, represented by a private attorney or a public legal services program.

● WAGE CLAIM LAW

TERMS: Whenever an employer dismisses or lays off a worker, for whatever reason, final wages and other compensation are payable on the next regular payday for the pay period in which the job ends. A worker who, at any time, does not receive full pay for his or her labor may file a claim for unpaid wages with the state labor department, provided the claim amounts to more than \$35 and less than \$6,000.

ENFORCEMENT: *Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204 (317-232-2655).*

A worker who wishes to take legal action on a wage claim directly, or whose claim involves \$6,000 or more in unpaid wages, may file suit against the employer in civil court, using a private attorney or public legal services program.

● ADJUSTED GROSS INCOME TAX ACT OF 1963

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

Within 30 days after the end of the year, the employer must provide each worker from whom state income tax was withheld a statement showing the total amount of wages paid and the amount of state income tax withheld from the worker's pay during the previous calendar year.

ENFORCEMENT: *Indiana Department of Revenue, Indianapolis, Indiana 46204 (317-232-2240).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

IOWA

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Migratory Labor — Child workers who regularly travel from state to state in connection with seasonal employment in agriculture are subject to the following employment restrictions:

Minimum Age — In general, no one under the age of 12 is allowed to work in migratory agricultural labor at any time, with or without pay.

Work Permits — No child between 12 and 16 years of age may be employed in migratory agricultural labor without obtaining a special work permit from the state, and employers are prohibited from hiring a migrant child for agricultural work without receiving the permit. A work permit will not be issued for a child under the age of 14 without proof of age.

Time-of-Day Limitations — A valid work permit allows employment only between the hours of 5:00 a.m. and 7:30 p.m. (5:00 a.m. through 9:00 p.m. from June 1 through Labor Day), with these additional restrictions:

Children Age 12 and 13 — May not work prior to or during regular school hours on any day when a public or private school is in session and available to the child.

Children Age 14 and 15 — May be employed at any time during the summer school session.

Maximum Hours — No one under the age of 16 may be employed for more than 8 hours in any one day or more than 40 hours in any one week. When school is in session, such minors may not work more than 4 hours a day or 28 hours a week.

Rest Periods — Children under 16 who are employed for 5 hours or more on any day are entitled to a rest period of not less than 30 minutes at some point during the workday.

Other Agricultural Labor — Except for migratory work as defined above, the child labor law does not apply to minors performing part-time work in agriculture, nor to minors roguing, detasseling or hand-pollinating seed or grain crops during the summer months.

ENFORCEMENT: *Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692).*

● COMPULSORY EDUCATION LAW

TERMS: In general, any person who has control of a child over 6 and under 16 years of age, in proper physical and mental condition to attend school, must see that the child attends public school, or place the child in an approved private school, during the locally designated school year.

ENFORCEMENT: These provisions are enforced by the state's local school boards, through truancy officers and other attendance personnel.

CIVIL RIGHTS

● IOWA CIVIL RIGHTS ACT OF 1965

TERMS: In general, it is illegal for an employer who regularly employs 4 or more workers to fire an employee, to refuse to hire a job applicant, or to otherwise discriminate in employment because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the applicant or employee. Similar acts of discrimination by employment agencies and labor organizations are also prohibited.

Employers of 4 or more workers, as well as employment agencies and labor organizations, are generally not permitted to advertise or indicate in any other way that individuals of a particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability are unwelcome or unwanted for employment or membership.

ENFORCEMENT: *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).* A worker who has been affected by an act of unlawful employment discrimination may file a complaint with the Commission at any time within 300 days after the violation occurred.

Under certain circumstances, at least 60 days after the complaint is submitted, the worker may obtain a release from the Commission and sue the employer or other party directly, using a private attorney or a public legal services program. The worker has 90 days after a release is issued to file suit.

● IOWA CIVIL RIGHTS ACT OF 1965 (WAGE DISCRIMINATION)

TERMS: It is illegal for an employer who regularly employs 4 or more workers to discriminate against an employee — because of the employee's age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability — by paying wages to the employee at a rate less than the rate paid to other employees in the same establishment for equal work on jobs that require equal skill, effort and responsibility and that are performed under similar working conditions.

Wage differences are not regarded as discriminatory if they are based on a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other factor other than the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of the employee.

ENFORCEMENT: *Iowa Civil Rights Commission, Des Moines, Iowa 50319 (515-281-4121; toll-free 800-457-4416).*

Under certain circumstances, at least 60 days after a worker submits a complaint to the Commission, the worker may obtain a release from the Commission and sue the employer or other party directly, using a private attorney or a public legal services program. The worker has 90 days after a release is issued to file suit

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH LAW

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor commissioner has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).*

HOUSING

● MIGRATORY LABOR CAMP LAW

TERMS:

Permits — No one may operate a migrant labor camp without first obtaining a permit from the state and keeping the permit posted on the property at all times during the camp's operation.

In brief, a migrant labor camp is defined as any structure or vehicle established or maintained as living quarters for 7 or more migrant farmworkers (including the spouse and children of such workers). Included within this definition is any combination of separate living quarters which together house 7 or more migrant workers, all of whom work at any time for the same employer.

Standards — To be eligible for a permit, a migrant labor camp must meet certain minimum standards of health and safety, which are detailed in the public health regulations. Among many other factors considered in determining if a housing facility meets the standards are these:

- Living and sleeping space requirements
- The water supply
- The sewage disposal system
- Toilet and bathing facilities
- Laundry facilities
- Heating requirements
- Lighting requirements
- Cooking, eating and sleeping accommodations
- Trash disposal equipment and procedures
- Fire prevention and other safety equipment and procedures
- Insect and rodent control measures

Reporting of Illnesses — The camp operator must report immediately to the local board of health the name and address of any camp resident known to have or suspected of having a non-minor communicable disease. Similarly, any case of suspected food poisoning or any unusual occurrences of any illness in which fever, diarrhea, sore throat, vomiting or jaundice is a prominent symptom must be reported to the local health authority and to the state health commissioner.

Rental Charges — No camp operator or any other person may make a rental charge or deduction from a worker's wages for providing migrant labor housing or related housing facilities unless the worker is informed of the charge before contracting for the employment.

ENFORCEMENT: *Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561).*

INSURANCE AND COMPENSATION

● IOWA EMPLOYMENT SECURITY LAW

TERMS: Every Iowa farm operator or other agricultural establishment that paid \$20,000 or more for farm labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 farmworkers for some part of a day in 20 or more different weeks this year or last, is required to pay unemployment taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Services Division, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-3896).* Unemployment claims may be filed at any local IowaWORKS Center, or online at <https://uicclaims.iwd.iowa.gov/UIInitialClaim/>.

● WORKERS' COMPENSATION LAW

TERMS: Agricultural employers who paid at least \$2,500 in cash wages the previous year are responsible for paying cash disability benefits, medical and rehabilitation costs, and burial expenses in the event of the injury or death of any of their workers in the current year. Employers may meet this obligation by obtaining workers' compensation insurance.

A farmworker who, at the time of a job-related injury, was working for an agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding year is entitled to workers' compensation benefits. If the injury results in the worker's death, benefits are usually payable to the worker's surviving dependents.

ENFORCEMENT: *Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583).* In order to protect the right to workers' compensation benefits, a worker who is injured on the job (or a representative of the worker) should notify the employer of the accident within 90 days after it occurs. Any dispute with the employer or the employer's insurance carrier regarding benefits may be reported to the Division.

● IOWA OCCUPATIONAL DISEASE LAW

TERMS: A farmworker who is disabled by an occupational disease and who, at the time of the last serious exposure to the cause of the disease, was working for an agricultural employer whose total wage expenditures amounted to \$2,500 or more during the previous year, is generally entitled to compensation (including medical expenses, weekly disability payments, and other benefits) paid for by the employer. Most employers meet their obligation under this law by obtaining a standard policy of occupational disease compensation insurance.

ENFORCEMENT: *Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583).* In order to protect the right to benefits, a worker who is incapacitated due to an occupational disease must notify the employer in writing within 90 days after the first distinct symptoms of the disease appear. Any dispute with the employer or the employer's insurance carrier regarding benefits may be reported to the Division.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS: It is unlawful for any person or firm, for a fee or other compensation, to supply workers to an employer, to arrange jobs for workers, or to give information to employers or workers as to where help or jobs may be obtained, without having a state-issued employment agency license. As conditions for receipt of a license, the applicant must pay a \$75 license application fee, provide the state agency with a fee schedule and a copy of its contract form, and post a bond in the amount of \$30,000 to cover any damages due to a wrongful act or violation of law on the part of the applicant.

Employment agencies are also required to keep a record of each worker who signs an employment contract or agreement, the name and address of each employer to whom they refer a worker, and the fees they charge. Likewise, a worker cannot be required to pay a fee to an employer as a condition of hire, and employment agencies are prohibited from deceiving or making false promises to workers seeking employment or employers seeking workers.

ENFORCEMENT: *Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-5615).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE ACT OF IOWA

TERMS: No one may apply any pesticide for pay or profit without first passing a formal state-administered examination and being certified by the state as competent to do so. Likewise, agricultural producers who use restricted pesticides on their own crops must be certified as private applicators and must be tested prior to certification.

Aside from certification requirements, commercial pesticide applicators must be licensed by the state before conducting business. Issuance of a license requires payment of a license fee and completion of an examination to demonstrate knowledge of application techniques and the nature and effect of the pesticides the applicant intends to use. The state agency will not issue a commercial applicator's license until the applicant has furnished evidence of financial responsibility, in the form of a surety bond or liability insurance policy covering damages resulting from the applicant's pesticide operations.

ENFORCEMENT: *Pesticide Bureau, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa 50319 (515-281-8591).* Anyone who has been injured or suffered damages from someone else's application of a pesticide should file a report with the Department no later than 60 days after the date the injury or damages occurred.

● OCCUPATIONAL SAFETY AND HEALTH LAW (HAZARD COMMUNICATION)

TERMS: Under Iowa's occupational safety and health law, the state labor commissioner has adopted regulations requiring employers to provide information to their workers about the hazardous chemicals to which they are exposed on the job. Iowa's hazard communication standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and likewise apply only to those farm establishments that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ENFORCEMENT: *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).*

● OCCUPATIONAL SAFETY AND HEALTH LAW (ANHYDROUS AMMONIA)

TERMS: Under Iowa's occupational safety and health law, the state labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Iowa's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that have employed more than 10 workers at any time within the past 12 months, or that maintain a temporary labor camp.

ENFORCEMENT: *Iowa OSHA Enforcement, Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-242-5870).*

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage Coverage — Agricultural workers in Iowa are entitled to the state or federal minimum wage, whichever is higher, only if the employer meets *both* of the following conditions:

- (1) The employer used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December).
- (2) The employer has annual sales of at least \$300,000.

Minimum Wage Rate — Both the state and federal minimum wages are currently \$7.25 per hour.

ENFORCEMENT: *Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● IOWA WAGE PAYMENT COLLECTION LAW

TERMS:

Pay Periods and Paydays — With few exceptions, employers must pay their workers' wages no less often than monthly, semi-monthly or every 2 weeks, on regular paydays designated in advance. A payday may not be more than 12 days (excluding Sundays and legal holidays) after the end of the pay period for which wages are to be paid.

Method of Pay — Wages must normally be paid in U.S. currency, or by check or comparable draft that can be exchanged for cash on demand at full face value.

Final Pay — Whenever a worker is fired or laid off, the employer must pay the net amount of all wages earned by the worker up to the time of termination, no later than the next regular payday.

Wage Deductions — An employer may not withhold or deduct any portion of a worker's wages unless the deduction is required or permitted under state or federal law or by court order, or the deduction is authorized in writing by the worker for a lawful purpose and for the worker's own benefit. With few exceptions, employers are not permitted to make any deduction for losses due to breakage or damage to property.

Wage Statements — On each regular payday, employers must provide the worker with a statement showing the hours worked, the wages earned, and any deductions made from the worker's earnings.

Liability for Unpaid Wages — If a farm labor contractor contracts with a seed or feed grain producer to rogue, detassel or hand-pollinate plants and fails to pay all his or her workers' wages, the seed or feed grain producer is also liable to the workers for the unpaid wages.

ENFORCEMENT: *Division of Labor, Iowa Workforce Development, Des Moines, Iowa 50319 (515-281-3606; toll free 800-562-4692).*

As an alternative to filing a wage claim with the Division of Labor, a worker has the right to take legal action to collect unpaid wages directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MIGRATORY LABOR CAMP LAW (*RENTAL CHARGES*)

TERMS: No migrant labor camp operator or any other person may deduct rent or withhold any other charges from a worker's wages for providing migrant labor housing or related facilities unless the worker was informed of the charges before accepting employment.

ENFORCEMENT: *Migrant Labor Camp Program, Bureau of Environmental Health Services, Iowa Department of Public Health, Des Moines, Iowa 50319 (515-281-8561)*. A worker who has had rent or other housing-related charges deducted from his or her pay without having been advised of the charges before hiring should notify the Department, or seek legal recourse through a private attorney or public legal service provider.

● PERSONAL NET INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year — or within 30 days after the last payment of wages, in the case of a worker whose job ends before the close of the current year — the employer is required to provide the worker with a written statement showing (1) the employer's name, address and tax identification number, (2) the worker's name, address and Social Security number, (3) the worker's total wages, (4) the amount of state income tax withheld, and (5) the amount of federal income tax withheld.

ENFORCEMENT: *Iowa Department of Revenue, Des Moines, Iowa 50306 (515-281-3114; toll-free 800-367-3388)*.

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Kansas

CHILD LABOR

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With few exceptions, every parent or guardian having control of any child in Kansas who has reached the age of 7 years, but who is under the age of 18, must ensure that the child attends a public school for the full prescribed school term, or a private, denominational or parochial school taught by a competent instructor for a substantially equivalent period of time.

ENFORCEMENT: This law is enforced at the local level by the state's local school boards. Each school board must designate one or more attendance officers, who are responsible for monitoring compliance with the compulsory attendance law.

Whenever a child under the age of 13 is not attending school as required, the local attendance officer generally must report the case to the *Kansas Department for Children and Families, Topeka, Kansas 66612 (785-296-3271)*.

Cases of non-attendance by children 13 years of age and older are reported to the appropriate county or district attorney.

CIVIL RIGHTS

● KANSAS ACT AGAINST DISCRIMINATION

TERMS: A farm operator or any other employer with 4 or more employees may not refuse to hire a job applicant, fire an employee, segregate or make other distinctions between applicants or employees, or discriminate in any other way against such individuals, on the basis of race, religion, color, sex, disability, national origin, or ancestry, without a valid business reason.

Furthermore, it is unlawful for such an employer to circulate any advertisement or statement, or to use any form of job application, which expresses any preference or discrimination as to race, religion, color, sex, disability, national origin, or ancestry. Similar practices by an employment agency or labor organization are also prohibited.

ENFORCEMENT: *Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206).* A worker affected by an illegal act of employment discrimination may file a complaint with the Commission, no later than 6 months after the alleged violation.

After a case is closed, a worker who has filed a complaint with the Commission and is not satisfied with the Commission's final ruling may take legal action against the person charged in the complaint directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● KANSAS AGE DISCRIMINATION IN EMPLOYMENT ACT

TERMS: In general, employers with 4 or more employees are prohibited from discriminating against a worker 40 years of age or older, by firing, segregating, refusing to hire, or otherwise discriminating against the worker because of age. Similar acts of age discrimination committed by employment agencies and labor organizations are also illegal.

It is not unlawful, however, to make employment decisions based on age where age is a bona fide occupational qualification necessary to the normal operation of the employer's business, or to observe the terms of a bona fide seniority system or employee benefit plan which is not simply a means of getting around the state civil rights laws.

ENFORCEMENT: *Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206).*

SPECIAL NOTE: Without the worker's consent, an employer is not permitted to reduce a worker's wage rate or change other terms or conditions his or her employment in order to comply with this law.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some part of a day in each of 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-575-1460).* Claims may be filed by telephone, at 800-292-6333, or online at www.getkansasbenefits.gov/BenefitsStartMenu.aspx.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY LAW

TERMS: Anyone who uses advertising to recruit workers seeking employment or provides job information to workers seeking employment, and charges the workers a fee to do so, must obtain a private employment agency license from the state labor department. Each applicant for a license must pay an annual license fee of \$25 and post a bond in the amount of \$500 as security against violations of the employment agency law.

Among other prohibited acts, it is illegal for a licensed employment agency to publish any false or fraudulent notice or give any false information to workers concerning work or employment.

ENFORCEMENT: *Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068).*

● EMPLOYEE PROTECTION LAWS (*CREW CHIEF REGISTRATION*)

TERMS: Any person (other than an employer or custom combine operator) who brings any migrant farmworker into Kansas, or who is responsible for finding them employment, must register with a local office of the state employment service. At the time of registration, the crew leader must furnish the agency with a list of the names and Social Security numbers of all migrant workers the crew leader serves and the names of the farm operators for whom worker recruitment services are being performed.

Farm operators and businesses that employ migrant agricultural workers in Kansas must make wage payments directly to each individual worker, and no such payment may be made to a crew leader.

ENFORCEMENT: *Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481).*

LABOR RELATIONS AND UNION REPRESENTATION

● AGRICULTURAL EMPLOYMENT RELATIONS LAW

TERMS:

Worker Rights — Agricultural workers have the right to form, join and participate in the activities of labor organizations of their own choosing, for the purpose of negotiating with their employers concerning complaints and employment conditions. Farmworkers also have the right not to involve themselves in such activities, and no worker may be required to join a labor organization as a condition of employment.

Recognition of Labor Organizations — Whenever at least 30 percent of the workers in a particular agricultural establishment or work unit submit a petition requesting that the state certify a particular labor organization as their bargaining representative, and their employer has had at least 6 workers for 20 or more days in any month during the 6 months prior to the filing of the petition, the state agency must conduct a secret-ballot election to determine the workers' wishes. Each worker must be given an opportunity to vote for the labor organization of his or her choice, or to choose no representation. Any labor organization certified by the state as a result of such an election is obligated to represent all workers in the work unit involved, even if they are not members of the organization. With some limitations, workers may also request an election whenever they believe a majority of the workforce in the unit no longer wish to be represented.

Prohibited Practices — Among other illegal acts defined in the law, agricultural employers and their agents are prohibited from interfering with farmworkers in the exercise of the rights outlined above, dominating or interfering in the formation or administration of an agricultural labor organization, encouraging or discouraging membership in a labor organization, or refusing to meet and negotiate in good faith with representatives of certified or recognized labor organizations.

ENFORCEMENT: *Agricultural Labor Relations Board, Kansas Department of Labor, Topeka, Kansas 66603.*

This agency is activated only when a complaint is filed with the state Secretary of Agriculture alleging the existence of a controversy. *The Board is currently inactive.*

SPECIAL NOTE: An employer may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

PESTICIDES AND AGRICULTURAL CHEMICALS

● KANSAS PESTICIDE LAW

TERMS:

Pesticide Application Businesses — In general, no firm or individual may, for compensation, engage in the business of applying pesticides on the property of another without being licensed as a pesticide business. Among other prerequisites, licensing requires payment of an application or renewal fee and proof of financial responsibility, in the form of a surety bond or liability insurance covering potential damages from pesticide accidents.

Commercial Applicators — It is generally unlawful to use any restricted pesticide without a commercial applicator's certificate, unless working under the supervision of a certified applicator. Applicants for such a certificate must, among other requirements, pass a written examination demonstrating adequate knowledge concerning the proper use of restricted pesticides.

Private Applicators — Agricultural producers who intend to use restricted pesticides on their own crops must apply for a private applicator's certificate, which may be issued only if the applicant passes an open-book examination indicating knowledge of pesticide problems, proper storage, handling and disposal procedures, pesticide labeling, and pesticide safety, among other matters.

Unlawful Acts — It is illegal for anyone to use pesticides in a manner contrary to instructions on the product's label, or to store or dispose of any pesticide or pesticide container in a manner which would cause injury to humans, vegetation, crops, livestock or wildlife. It is also illegal, among other offenses, for anyone required to be licensed or certified under the law to knowingly operate faulty or unsafe equipment, to fail or neglect to keep required records or to make required reports, or to use any method or material without considering the health, safety or welfare of the public.

ENFORCEMENT: *Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688).* A person who is injured or who suffers damages from someone else's use of pesticides may file a report of the incident with this agency within 60 days after it occurs.

● KANSAS ANHYDROUS AMMONIA LAW

TERMS: This law regulates the handling, storage and transportation of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer.

On-Farm Transportation Systems — Tanks that are mounted on wagon-type farm vehicles and used to transport ammonia must be built according to detailed safety specifications, must be equipped with prescribed gauges, valves and hoses, and must be properly marked with identifying information and warnings. Each tank must be securely attached to its vehicle or trailer, and there must be a 5-gallon container of water on the trailer or inside the pulling vehicle.

On-Farm Application Systems — Containers attached to tractors or other farm implements and used to apply anhydrous ammonia must be constructed, equipped and mounted as detailed in the regulations, and labeled with prescribed warning and safety information. A 5-gallon container of water must be carried on the trailer to which each ammonia tank is attached, or carried inside the pulling vehicle.

Prohibited Acts — Among other violations, it is unlawful for anyone to use any equipment intended for the handling of anhydrous ammonia when such equipment is defective or otherwise unsafe.

ENFORCEMENT: *Pesticide and Fertilizer Program, Kansas Department of Agriculture, Manhattan, Kansas 66502 (785-564-6688).*

WAGES AND HOURS

● WAGE PAYMENT LAWS

TERMS:

Pay Periods — Employers must pay their workers' wages at least once each calendar month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made may not be more than 15 days before the payday.

Final Pay — Whenever an employer dismisses a worker or the worker quits, the employer must pay final wages no later than the next regular payday.

Method of Pay — Wages must generally be paid in lawful U.S. money, by checks which can be cashed in the local community, by direct deposit to a bank chosen by the worker, or by a debit-type payroll card.

Deductions from Pay — In general, it is unlawful for an employer to withhold any part of a worker's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for documented health care or services, with no financial benefit to the employer, (3) the deductions are authorized in writing by the worker and are for a lawful purpose for the worker's own benefit, or (4) the deductions are for contributions to an approved employee retirement plan.

Exception — An employer may withhold a portion of a worker's wages to allow repayment of a loan made by the employer, to recover a payroll overpayment, or to recover the cost of employer-provided items such as uniforms, as long as (1) there is a signed agreement between the employer and the worker consenting to it, and (2) amounts withheld under these circumstances do not end up reducing the worker's wages to below the applicable federal or state minimum wage.

Notifications — At the request of a worker, the employer must (1) notify the worker in writing as to the rate of pay and the date and place of wage payments, (2) give the worker prior written notice of any change in these terms or conditions, (3) provide written notice of the employee benefits to which the worker is entitled, and (4) furnish the worker with an itemized statement of deductions made from the worker's wages for each pay period such deductions are made.

ENFORCEMENT: *Employment Standards Division, Kansas Department of Labor, Topeka, Kansas 66603 (785-296-5000, extension 1068).*

● **EMPLOYEE PROTECTION LAWS (WAGE PAYMENTS TO MIGRANT WORKERS)**

TERMS: Farm operators and other agricultural establishments that employ migrant workers, and the agents of such establishments who are responsible for the payment of workers' wages, must make wage payments directly to the individual worker. Payments for the worker's labor may not be made or entrusted to a crew leader under any circumstances.

ENFORCEMENT: *Workforce Services Division, Kansas Department of Commerce, Topeka, Kansas 66612 (785-296-3481).*

As an alternative to filing a complaint with the Department, the law gives workers the right to take legal action in civil court to enforce these provisions, using a private attorney or a public legal services program.

● **KANSAS WITHHOLDING AND DECLARATION OF ESTIMATED TAX ACT**

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31, the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld, if any.

ENFORCEMENT: *Division of Taxation, Kansas Department of Revenue, Topeka, Kansas 66612 (785-296-6121).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Kentucky

CHILD LABOR

● **COMPULSORY ATTENDANCE LAW**

TERMS: In general, every parent, guardian or other person living in Kentucky and having control of a child who is at least 6 years of age, but who has not reached the age of 18, is required to send the child to a public school for the full school term. This requirement applies even if the child's residence in Kentucky is seasonal or the child's parent or guardian is a resident of another state.

ENFORCEMENT: The school attendance law is enforced by the local public school districts.

CIVIL RIGHTS

● **CIVIL RIGHTS LAW**

TERMS: With certain exceptions, it is illegal for an employer who has 8 or more employees in Kentucky, in each of 20 or more weeks in the current or preceding year, to refuse to hire a job applicant, to fire a worker, or to discriminate in any other way against a person with respect to wages or the terms and conditions of employment, because of the person's race, color, religion, national origin, sex, or age (over 40), or because the person is a smoker or non-smoker.

It is also unlawful for such an employer to segregate or classify applicants or employees on any such grounds, in a way which would tend to limit job opportunities or otherwise negatively affect their employment status.

Similar discriminatory acts by employment agencies and labor organizations are likewise prohibited.

ENFORCEMENT: *Enforcement Branch, Kentucky Commission on Human Rights, Louisville, Kentucky 40202 (502-595-4024; toll-free 800-292-5566).* A worker who has been subjected to an act of illegal employment discrimination may file a complaint with the Commission at any time within 180 days after the act occurred.

As an alternative to filing a claim or complaint with the Commission, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. However, if the complaint has already been filed with the Commission, the court cannot consider it.

● WAGE DISCRIMINATION LAW

TERMS: Employers in Kentucky who employ 2 or more workers for 20 or more weeks during the current or preceding year are prohibited from paying wages to one employee at a rate less than the rate paid to an employee of the opposite sex for work requiring equal skill, effort and responsibility.

This provision does not, however, rule out wage differences paid under a seniority system or any other such plan, as long as it does not discriminate on the basis of sex.

ENFORCEMENT: *Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524).*

As an alternative to filing a claim or complaint with the Department, the law gives workers affected by wage discrimination the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. Such a suit may not be filed any later than 6 months after the violation occurred.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to all agricultural employers, employees and workplaces.

ENFORCEMENT: *Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: A farm operator or other employer who paid \$20,000 or more in any 3-month period (calendar quarter) in the current or preceding year for agricultural labor, or employed 10 or more agricultural workers for some part of a day in 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Office of Employment and Training, Kentucky Department of Workforce Investment, Frankfort, Kentucky 40601 (502-564-5331).* Unemployed workers who believe they may be eligible for benefits may file a claim online, at uiclaims.des.ky.gov/ebenefit/.

PESTICIDES AND AGRICULTURAL CHEMICALS

● KENTUCKY FERTILIZER AND PESTICIDE STORAGE, USE AND APPLICATION ACT OF 1996

TERMS: No one may apply pesticides to someone else's property, for hire, without first obtaining a license from the state. Issuance of an applicator's license requires the applicant (1) to pay an annual license fee, plus an inspection fee for each aircraft and each piece of ground equipment to be licensed, and (2) to pass an examination demonstrating knowledge of the proper use of pesticide equipment, the hazards involved in applying pesticides, how to calculate pesticide concentrations, identification of pests, protective clothing and equipment, pesticide disposal and decontamination, and state and federal pesticide laws and regulations. Employees of pesticide applicators who intend to apply pesticides by hand, or as operators in charge of any pesticide equipment, must also be licensed.

Among other offenses defined in the law, it is illegal for a licensed applicator to fail to keep required records or make required reports, to operate unlicensed or unsafe equipment, or to operate in a faulty or careless manner. Furthermore, it is a crime for anyone, licensed or unlicensed, to (1) use any registered pesticide contrary to instructions and warnings on the product's label, (2) purchase, use or supervise the use of a restricted pesticide without being properly licensed, or (3) store or dispose of a pesticide or pesticide container in a way that could cause injury to humans, vegetation, crops, livestock, wildlife or pollinating insects.

ENFORCEMENT: *Agriculture Branch, Division of Environmental Services, Office of Consumer and Environmental Protection, Kentucky Department of Agriculture, Frankfort, Kentucky 40601 (502-782-9240).*

SPECIAL NOTE: Anyone who has been injured or has suffered damages due to an application of pesticides should report the matter to the Department no later than 60 days after the injury or damages occurred. *Call toll-free 866-289-0001 and tell the staff that you would like to file a complaint.*

● KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational safety and health law, the state has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural employers, employees and workplaces.

ENFORCEMENT: *Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● KENTUCKY OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

TERMS: Under Kentucky's occupational safety and health law, the state has adopted standards for the storage and handling of anhydrous ammonia. These standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural employers, employees and workplaces.

ENFORCEMENT: *Division of Occupational Safety and Health Compliance, Kentucky Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-3218).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

WAGES AND HOURS

● WAGE PAYMENT LAWS (*SEVENTH-DAY OVERTIME*)

TERMS: Farm operators and other employers in the state who allow an employee to work 7 days in any one week must pay the worker time-and-a-half for hours worked on the seventh day, but only if the worker has been allowed to work more than 40 hours during that week.

ENFORCEMENT: *Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524).*

● MINIMUM WAGE LAW (*LUNCH AND REST PERIODS*)

TERMS: Farm employers must provide their workers with (1) a reasonable daily lunch break, no sooner than 3 hours and no later than 5 hours after the start of the workday, and (2) a rest period of at least 10 minutes during each 4 hours of work.

For workers who are paid by the hour or paid a fixed salary, the rest period counts as paid work time and must be provided in addition to the regularly scheduled lunch break.

ENFORCEMENT: *Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524).*

As an alternative to filing a claim or complaint with the Department, the law gives workers who have been denied lunch breaks or paid rest periods the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● WAGE PAYMENT LAWS

TERMS:

Paydays — Every employer must pay each worker at least twice a month, and no payday may occur more than 18 days after the end of the pay period. A worker who is absent or for any other reason is not paid on the designated payday must receive his or her earnings within 6 days after demand for payment.

Final Pay — A worker who quits or is laid off or fired must be paid all earnings in full no later than the next regular payday, or within 14 days after termination, whichever is later.

Deductions from Pay — No employer may make any deduction from a worker's wages unless the deduction is authorized by local, state or federal law or is authorized in writing by the worker for some lawful benefit. In general, it is illegal for an employer to make a deduction to cover fines, breakage, losses due to lost or stolen property, or losses due to property damage.

Pay Statements — Like most other employers in the state, farm operators who employ 10 or more workers and make any deductions from their pay are required to furnish each such worker, at the time of payment, a statement showing the amount of each deduction and the general purpose for which the deduction is made.

ENFORCEMENT: *Division of Employment Standards, Apprenticeship, and Mediation, Department of Workplace Standards, Frankfort, Kentucky 40601 (502-564-1524).*

As an alternative to filing a claim or complaint with the Department, the law gives workers who have not been paid their wages in accordance with these provisions the right to sue the employer in civil court, using a private attorney or a public legal services program.

● INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31 — or on the day of the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing (1) the employer's name, (2) the worker's name and Social Security number, (3) the worker's gross wages, and (4) the amount of state income tax withheld.

ENFORCEMENT: *Individual Income and Withholding Tax Division, Office of Income Taxation, Kentucky Department of Revenue, (502-564-7007, extension 7552).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Louisiana

CHILD LABOR

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, every parent or other person living in Louisiana and having control of a child between the ages of 7 and 18 must send the child to a public or private day school and assure that the child attends during regular school hours. Children in this age range may not be excused from school to work at any time in any job, including agriculture, even in the employ of their own parents.

Among other exceptions, 16- and 17-year-olds may withdraw from school to enroll in an alternative education program or vocational-technical education program, on application by their parent or legal guardian to the local school district.

ENFORCEMENT: School attendance is enforced locally by parish and city school boards, and by district family or juvenile courts. At the state level, enforcement is supervised by the *Louisiana Department of Education, Baton Rouge, Louisiana 70804 (225-219-5172; toll-free 877-453-2721).*

CIVIL RIGHTS

● LOUISIANA EMPLOYMENT DISCRIMINATION LAW

TERMS: With few exceptions, it is illegal for an employer who has *20 or more workers* on each working day in 20 or more weeks this year or last to refuse to hire a job applicant, to fire an employee, or to otherwise discriminate against or in favor of an individual with respect to wages or the terms or conditions of employment, because of race, color, religion, sex, national origin, age (over 40), disability, sickle cell trait, or protected genetic information. Likewise, no employer may discipline or fire a veteran for taking time away from work to attend medical appointments required to receive veterans benefits.

Employers with *more than 25 employees* for each working day in 20 or more calendar weeks are also prohibited from refusing to promote a female employee because of pregnancy or childbirth, or from denying such an employee the same benefits and employment privileges granted other employees.

ENFORCEMENT: *Louisiana Commission on Human Rights, Office of the Governor, Baton Rouge, Louisiana 94094 (225-342-6969).* A worker who believes that he or she has been subjected to employment discrimination under this law may file a complaint with the Commission within 180 days after the alleged unlawful practice occurred.

As an alternative to submitting a complaint to the Commission, a worker may file suit against the employer involved, using a private attorney or a public legal services program. In general, a suit of this kind cannot be filed any earlier than one year after the discrimination occurred, and the worker must give the employer involved at least 30 days' notice before filing.

● STATE LABOR LAWS (*INDIVIDUAL RIGHTS*)

TERMS:

Political Rights — No employer who regularly employs 20 or more workers may forbid or prevent any such worker from participating in politics or running for public office, nor may such an employer control the political activities of any worker, or influence a worker's political activities, by threatening to fire the worker.

Political Opinions — It is illegal for any grower, manager, supervisor or other employer of laborers, regardless of number, to fire a worker before the job is finished on account of the worker's political opinions, or to control the vote or restrict the voting rights of a worker by any agreement or contract whatsoever.

Forced Purchases — An employer may not require any of his or her workers to purchase food, clothing or merchandise of any kind (other than work uniforms) from any particular person or store, or penalize any worker for failing to do so.

Retaliation — Employers in Louisiana are prohibited from firing or discriminating in any other way against a worker because the worker has testified in an investigation, hearing or trial concerning the enforcement of a state labor law.

ENFORCEMENT: *Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679).* This agency may take legal action in district court to correct and prevent violations of these provisions.

With respect to a violation of the political rights described above, a worker has a right to file a civil suit against the employer involved for damages, using a private attorney or a public legal services program.

INSURANCE AND COMPENSATION

● LOUISIANA EMPLOYMENT SECURITY LAW

TERMS: Every farm or plantation operator or other agricultural employer who paid cash agricultural wages amounting to \$20,000 or more in any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more workers in agricultural labor for some portion of a day in each of 20 different weeks this year or last, is required to pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Office of Unemployment Insurance Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (toll-free 866-783-5567).* Jobless workers wishing to apply for benefits may file online at www.laworks.net, or by phone at 866-783-5567.

● LOUISIANA WORKERS' COMPENSATION LAW

TERMS: If a farmworker is injured in an accident on the job, or is disabled by an occupational disease, the worker's employer is responsible for paying the cost of necessary medical, surgical and hospital services, medicines, and related treatment, as well as weekly cash benefits if the worker is disabled by the injury. Similar benefits are payable to the worker's dependents if the accident or disease results in the worker's death. Most employers meet their responsibility under this law by obtaining workers' compensation insurance.

Exception — This law *does not apply* to workers who (1) are employed in the cultivation or harvest of an agricultural crop by a private unincorporated farm with an annual payroll of \$2,500 or less, and (2) receive annual earnings of \$1,000 or less.

ENFORCEMENT: *Office of Workers' Compensation Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-7555).* A worker who is injured on the job or suffers disablement due to an occupational disease should notify the employer as soon as possible, but in no case later than 30 days after the date of injury or onset of disability. If a dispute arises over payment of compensation, or if the employer or insurer fails to pay compensation, the worker may file a Disputed Claim for Compensation (Form LWC-WC 1008) with a Workers' Compensation district office.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT SERVICE LAW

TERMS: This law regulates the operations of private individuals and businesses that charge workers a fee to find or attempt to find them employment.

Licensing — No one operate or advertise a service that charges workers a fee to match them with jobs without first obtaining a license to do so from the state. As conditions for receiving a license, initial applicants must pay a \$200 annual license fee, a \$300 investigation fee, and a \$100 examination fee.

Bond — License applicants must obtain and keep in effect a \$5,000 surety bond, covering potential damages resulting from operation of their business.

Fees for Services — The fees charged by a private employment service must be reasonable and are subject to numerous restrictions and conditions.

Prohibited Acts — Among other violations, employment agencies may not (1) share the fees they collect from workers with the employers they provide workers to, (2) knowingly publish any false, fraudulent or misleading information related to a job or employment, or (3) send a worker to a worksite where a strike or other labor dispute is in progress.

ENFORCEMENT: *Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679).* This agency is responsible for licensing private employment services in the state, and for investigating and prosecuting complaints of violations.

LABOR RELATIONS AND UNION REPRESENTATION

● AGRICULTURAL LABORERS' RIGHT TO WORK LAW

TERMS: No agricultural worker may be required by an employer not to join a labor union as a condition of hiring or continued employment. At the same time, no farmworker maybe required to become or remain a member of a labor union, or to pay dues to a union, as a condition of hiring or continued employment.

Any agreement, understanding or practice which has the effect of either prohibiting or requiring union membership as a condition of hiring or continued employment is illegal.

These provisions may not be used to deny or limit the right of agricultural workers to bargain with their employers over the terms and conditions of employment, through a labor organization or union.

ENFORCEMENT: The Agricultural Laborers' Right to Work Law is enforced by public prosecuting attorneys in criminal court.

Apart from criminal action against the employer, a farmworker who is denied employment or fired because of membership or non-membership in a labor union is entitled to sue the employer for damages in civil court, using a private attorney or public legal services program.

PESTICIDES AND AGRICULTURAL CHEMICALS

● LOUISIANA PESTICIDE LAW

TERMS:

Private Applicator Certification — It is illegal for an agricultural producer to apply restricted pesticides on the farmer's own crops without being certified by the state as a private applicator. Certification may be issued only after the applicant satisfactorily demonstrates knowledge of the laws, regulations and safety practices applicable to restricted pesticides. In addition to their own use of such products, certified private applicators are authorized to supervise the application of restricted pesticides by competent uncertified individuals.

Commercial Applicator Certification — It is unlawful for anyone, for pay or profit, to apply any restricted pesticide on someone else's land unless the individual is certified as a commercial applicator. Among other requirements, commercial applicators must pass an examination demonstrating knowledge and competency in the safe use and application of restricted products. Certified commercial applicators may supervise the ground application of restricted pesticides by competent uncertified individuals but may not supervise the application of any pesticide from the air by any uncertified person.

Owner-Operator Licensing — Apart from certification requirements, anyone who owns or operates a commercial pesticide application business must obtain a license. Prior to obtaining a license, each owner-operator must post a bond or obtain liability insurance in an amount ranging from \$25,000 to \$50,000, depending on the nature of the operation.

Prohibited Acts — Among numerous other offenses specified in the law, it is illegal for anyone involved in the application or use of pesticides in Louisiana (1) to knowingly operate faulty or unsafe equipment, (2) to operate in a faulty or careless manner, (3) to fail to keep required records, (4) to apply a restricted pesticide without the proper certification or without required supervision, (5) to allow the application of a restricted pesticide by an uncertified person without the presence of a certified applicator, when such presence is required, and (6) to apply any pesticide in a manner contrary to instructions on the product's label.

ENFORCEMENT: *Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476).* A person who has suffered damages as a result of a pesticide application may file a damage complaint with the Department, within 15 days of the alleged occurrence or the discovery of the damage, whichever occurs later.

As an alternative, a person who suffers damages caused by a pesticide business may sue on the owner-operator's bond or insurance, using a private attorney or public legal services program.

● LOUISIANA PESTICIDE LAW (AERIAL APPLICATORS)

TERMS:

Aerial Applicator Certification — No one may apply pesticides by aircraft without being certified as a commercial aerial applicator.

Application Standards — With the single exception of mosquito control applicators, commercial applicators applying pesticides from an airplane must comply with very specific aerial spray equipment requirements and restrictions on the amount of pesticides applied per acre.

Time and Location Limitations — Aerial application of pesticides is prohibited while it is raining. In general, no pesticide may be applied from the air within 100 feet of any inhabited structure, or within 1,000 feet of any school grounds during normal school hours.

ENFORCEMENT: *Pesticide and Environmental Programs Division, Louisiana Department of Agriculture and Forestry, Baton Rouge, Louisiana 70806 (225-922-1234; toll-free 866-927-2476).* A person who believes that he or she has suffered damages as a result of a pesticide application may file a damage complaint with the Department.

● STATE LABOR LAWS (EXPOSURE TO TOXIC SUBSTANCES)

TERMS: Workers exposed to toxic substances in the workplace have a right to obtain information concerning the nature of those substances and their adverse health effects. Current and former employees and their representatives have the right to access the employer's records of worker exposures to potentially toxic materials or harmful physical agents, and to related medical records.

ENFORCEMENT: A worker whose request to an employer for access to records under this law has been denied may file suit in civil court to enforce compliance, using a private attorney or public legal service provider. If the court rules in the worker's favor, the worker is entitled to recover reasonable attorney's fees and court costs.

● ANHYDROUS AMMONIA LAW OF LOUISIANA

TERMS: Tanks used for the storage and transportation of anhydrous ammonia, which is commonly used as an agricultural fertilizer, must be constructed in accordance with detailed specifications. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

Ammonia tanks attached to farm wagons or trailers for transportation to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ENFORCEMENT: *Liquefied Petroleum Gas Commission, Louisiana Department of Public Safety and Corrections, Baton Rouge, Louisiana 70806 (225-925-4895).*

WAGES AND HOURS

● WAGE PAYMENT LAWS

TERMS: Whenever a worker quits or is fired or laid off, the employer must pay the worker's final wages on or before the next regular payday, or no later than 15 days after the date of termination, whichever occurs first.

Except where the worker carelessly or intentionally damages goods or the employer's property, it is illegal for an employer to charge a worker any fine or deduct any amount as a fine from the worker's wages.

ENFORCEMENT: A worker who has not received final wages within the required timeframe, or who has had a fine unlawfully deducted from his or her pay, may file a lawsuit against the employer to collect the unpaid wages, using a private attorney or a public legal services program.

● INCOME TAX LAW

TERMS: Unlike earnings in most other industries, wages paid for agricultural services in Louisiana are not subject to withholding of state income tax.

ENFORCEMENT: *Tax Administration and Compliance, Louisiana Department of Revenue, Baton Rouge, Louisiana 70802 (225-219-4059; toll-free 855-307-3893).*

SPECIAL NOTE: Even though farm employers are not required to deduct state income taxes from their employees' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Maine

CHILD LABOR

● COMPULSORY ATTENDANCE LAW

TERMS: Persons who are 7 years of age or older, but who are under the age of 17, generally must attend a public day school (or obtain state-approved equivalent instruction) during the time school is in regular session. Farmworkers and all other adults having a child within this age group under their control must see that the child attends school as required.

ENFORCEMENT: These provisions are enforced by local school boards.

CIVIL RIGHTS

● MAINE HUMAN RIGHTS ACT

TERMS: In general, it is unlawful for an employer to refuse to hire a job applicant, or to discriminate against an applicant in any other way, because of the applicant's race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin, or because the individual has ever filed a workers' compensation claim or exercised any other right under the state workers' compensation law.

Similarly, no employer may fire a current employee, or otherwise discriminate against a current employee with respect to wages, benefits, promotion or any other matter related to employment, because of the employee's race, color, sex (including pregnancy), sexual orientation, physical or mental disability, religion, age, ancestry, or national origin. The use of an employment agency which the employer knows or has reason to believe discriminates against individuals on these grounds is also illegal.

ENFORCEMENT: *Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290).* The Commission normally cannot process any complaint that is filed later than 300 days after the discriminatory act being reported took place.

A worker has the right to take legal action against a suspected violator directly, using a private attorney or public legal services program. Such a suit must be filed within 2 years after the violation, and the court cannot award any money to the worker unless the complaint is submitted to the Human Rights Commission first for possible settlement.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **WAGE PAYMENT LAWS (*EQUAL PAY*)**

TERMS: Employers in Maine are prohibited from paying wages to any worker at a rate less than the rate at which workers of the opposite sex at the same place of employment are paid for essentially the same work, in jobs that require the same skill, effort and responsibility.

It is not illegal, though, to pay unequal wages when the wage differences are based on seniority, the time of day worked, or other factors not related to the workers' sex.

ENFORCEMENT: *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).*

The equal pay provision in the wage payment laws also gives a worker affected by wage-related sex discrimination the right to sue the employer in civil court directly, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● **WHISTLEBLOWERS' PROTECTION ACT**

TERMS: It is unlawful for an employer in Maine to fire, threaten or otherwise discriminate against a worker in the terms and conditions of employment, because the worker reports to the employer, or to a public officer or agency, what the worker reasonably believes is a situation or practice that would put the health or safety of the worker or anyone else at risk. Employers are also prohibited from taking discriminatory employment action against a worker because the worker has been asked to take part in an investigation, hearing or inquiry by a public agency or court of law.

Before a worker's claim of unlawful discrimination under this law can be investigated and enforced, the worker is generally required to first bring the alleged violation, situation or practice to the attention of a supervisor and allow the employer a reasonable opportunity to correct it.

ENFORCEMENT: *Maine Human Rights Commission, Augusta, Maine 04333 (207-624-6290).* A worker alleging a violation of his or her rights under these provisions, and who has complied with the requirement to notify a supervisor in an attempt to resolve the issue informally, may file a complaint with the Commission for action under the Maine Human Rights Act, summarized in a previous entry.

HEALTH AND SAFETY

● **FARM WORKER OCCUPATIONAL SAFETY AND HEALTH LAW**

TERMS: Under regulations adopted by the state agriculture commissioner, blueberry growers who have more than 10 workers on any given day performing hand labor in the field are required to provide their workers with drinking water and sanitation facilities at the worksite, as described in brief below.

Drinking Water — The employer must provide cool, sanitary drinking water to the workers within a reasonable distance of the workplace. There must be no less than one gallon of water for every worker on the job each day, available either from a fountain or in single-use disposable cups.

Toilet and Handwashing Facilities — The employer must provide at least one toilet and one handwashing facility for every 30 workers. These facilities, or transportation to such facilities, must be located within 1/4 mile of each worker's place of work in the field. The employer is required to inform the workers regarding the location of the facilities, as well as the availability of any transportation to and from that location. Toilet paper, soap and paper towels (or allowable substitute supplies) must be furnished by the employer.

Exception — The toilet and handwashing facility requirements *do not apply* to workers engaged in hand-labor operations for 3 hours or less on any given day.

Other Requirements — Workers must be permitted reasonable opportunities during the workday to use the sanitation facilities described above. It is illegal for an employer to charge a worker any fee for the water, equipment or transportation required under these regulations, or to deduct any amount from a worker's wages or hours in connection with the use of required sanitation facilities.

ENFORCEMENT: *Division of Quality Assurance and Regulations, Bureau of Agriculture, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-3841).*

HOUSING

● AGRICULTURAL LABOR HOUSING STANDARDS LAW

TERMS: Housing provided to more than 5 agricultural workers by an agricultural employer must meet health and safety standards identical to the housing standards adopted under the federal Migrant and Seasonal Agricultural Worker Protection Act (*see entry, U.S. — Housing*).

ENFORCEMENT: *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).* This agency has authority to inspect agricultural labor housing facilities subject to this law at any reasonable time, to determine compliance with the health and safety rules that apply to such facilities.

As an alternative to filing a complaint with the state labor department, a worker affected by a violation of these provisions may take legal action against the owner of the housing facility directly, using a private attorney or a public legal service provider.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY LAW

TERMS: Farm operators and other agricultural employers are required to pay state unemployment insurance taxes if they paid agricultural wages amounting to \$20,000 or more in any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more agricultural workers for some part of a day in each of 20 different calendar weeks in the current or previous year. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits. The amount of the unemployment payment depends on the worker's previous earnings, and the worker may also qualify for an additional allowance for dependents.

ENFORCEMENT: *Bureau of Unemployment Compensation, Maine Department of Labor, Augusta, Maine 04333 (toll-free 800-593-7660).* Application for benefits may be made online at www.maine.gov/labor/unemployment/, or by phone at 800-593-7660.

SPECIAL NOTE: Workers who earned all of their wage credits from work in a seasonal industry (such as certain agricultural operations, for example) are generally eligible for benefits only if they are unemployed during the period when that industry is normally in operation. On the other hand, jobless workers with both seasonal and non-seasonal earnings may receive benefits any time of year, but outside the normal period of operation of the seasonal industry, eligibility and the amount of benefits are determined solely on the basis of the wage credits earned from their non-seasonal work.

● MAINE WORKERS' COMPENSATION ACT OF 1992

TERMS: Agricultural employers who have employed more than 6 non-seasonal agricultural workers for a combined total of 240 hours or more in any one week during the 52 weeks immediately before a job-related injury are required to provide the injured worker with immediate medical treatment and related services, at no cost to the worker. If the accident results in disability, the worker is entitled to receive regular cash payments to compensate for lost wages. Most employers meet these obligations by obtaining workers' compensation insurance.

Employers who (a) employ more than 6 non-seasonal agricultural workers, but do not meet the 240-hour threshold, (b) employ 6 or fewer non-seasonal agricultural workers, or (c) employ only seasonal or casual farmworkers, must provide all of them with workers' compensation coverage, unless they have an employer's liability insurance policy that includes medical payments up to certain required limits.

ENFORCEMENT: *Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087).* A worker who is injured in a job-related accident should notify the employer as soon as possible, but not more than 30 days after the date of injury. If the employer does not provide compensation, or in the event of a dispute over benefits, the worker may file a complaint with the Board.

● OCCUPATIONAL DISEASE LAW

TERMS: Where a worker's death or inability to work is the result of a disease caused by his or her employment, the worker or the worker's surviving dependents are entitled to cash benefits and payment of associated medical expenses, to the extent that the employer is subject to the Workers' Compensation Act (*see previous entry*).

Consequently, a farmworker disabled by an occupational disease is generally eligible for occupational disease benefits if he or she was working for an agricultural employer who employed more than 6 non-seasonal agricultural workers for a combined total of 240 hours or more in any one week during the 52 weeks immediately before the disablement.

Other farmworkers disabled by an occupational disease may also have a right to workers' compensation benefits, unless the employer provides coverage under an employer's liability insurance policy.

ENFORCEMENT: *Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087)*. Claims for disability or death due to occupational disease are handled in the same way as injury claims under the Workers' Compensation Act.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (*FARM LABOR CONTRACTOR REGISTRATION*)

TERMS: Every farm labor contractor who employs migrant or seasonal farmworkers in Maine is required to file a copy of his or her federal contractor registration certificate with the state labor department. The filing must include in-state contact information for the contractor or the contractor's representative.

ENFORCEMENT: *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900)*.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

PESTICIDES AND AGRICULTURAL CHEMICALS

● BOARD OF PESTICIDES CONTROL LAW

TERMS:

Certification of Applicators — In general, no commercial pesticide applicator or spray contracting firm may use any pesticide without being certified by the state. Similarly, agricultural producers are forbidden from using or supervising the use of any limited or restricted pesticide without first being certified as a private applicator, unless working under the direct supervision of a certified applicator. In both cases, certification requires demonstration of an appropriate level of knowledge regarding pesticide use, related hazards and necessary precautions.

Worker Safety — Certified pesticide applicators (including private agricultural producers) must familiarize their employees and those working under their direction with the hazards involved in handling the products used and must instruct them in the proper steps to be taken to avoid those hazards. Applicators must provide their employees with any necessary safety equipment prescribed on the pesticide label.

Pesticide Storage and Disposal — Whether in sealed or open containers, unused pesticides must be kept in a secure place and maintained so as to prevent unauthorized use or mishandling.

Pesticide Application with Power Equipment — Before and during pesticide spray activities that use power-driven equipment, applicators must monitor the equipment used, weather conditions, the boundaries of the area to be treated, surrounding property, and other factors. The occupants of certain sensitive areas (including housing) within 500 feet of a pesticide target area may request prior notification of applications involving power equipment. Under no circumstances may pesticides be applied when wind speed in the area exceeds 15 miles per hour.

Prohibited Acts — The state enforcement agency may suspend, revoke or refuse to renew certification if the applicator has, among other acts, used or supervised the use of pesticides applied in a careless, negligent or faulty manner, or in a manner potentially harmful to the environment or to the public health, safety or welfare.

ENFORCEMENT: *Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731).*

● BOARD OF PESTICIDES CONTROL LAW (*AERIAL APPLICATIONS*)

TERMS: The state pesticide control agency has established standards governing pesticide applications by aircraft, including the following:

Target Site Identification — A farm operator or other person who contracts for an aerial pesticide application must ensure that the target area is positively identified beforehand, using GPS, site markings visible to the applicator, or some other method approved by the state agriculture department.

Site Plans — Before any aerial application within 1,000 feet of a sensitive area that is likely to be occupied, the farm operator or other person contracting for the application must provide the applicator with a site plan that includes a map marking the area's boundaries and property lines and showing significant landmarks, flight hazards and the sensitive areas involved.

Application Checklist — Before conducting an aerial application within 1,000 feet of a sensitive area, the applicator is required to complete a state-approved checklist for each target site. Among other things, the checklist must include (1) the date and time, a description of the target site, and the name of the applicator, (2) confirmation that any required notifications have been carried out, (3) wind speed and direction, and (4) confirmation that there are no humans visible in or near the target area.

Wind Speed Limits — Unless otherwise specified on the pesticide product label, an applicator may not conduct an aerial application within 1,000 feet of a sensitive area likely to be occupied unless the wind speed is between 2 and 10 miles per hour.

ENFORCEMENT: *Board of Pesticides Control, Maine Department of Agriculture, Conservation and Forestry, Augusta, Maine 04333 (207-287-2731).*

● MAINE AERONAUTICS ACT (*AGRICULTURAL AVIATION*)

TERMS: Anyone applying pesticides from the air must follow federal regulations governing certification of pilots and aircraft and agricultural aircraft operations (*see entries, U.S. — Pesticides and Agricultural Chemicals*).

ENFORCEMENT: *Division of Aeronautics, Maine Department of Transportation, Augusta, Maine 04330 (207-624-3000).*

TRANSPORTATION

● EMPLOYMENT STANDARDS IN FORESTRY AND FARMING (*TRANSPORTATION OF WORKERS*)

TERMS: Farm labor contractors who are required to register with the U.S. Department of Labor must provide the farmworkers they employ with safe transportation between the workers' housing and their worksites each day, at no cost to the workers. Among the safety requirements that contractors must observe are these:

Compliance with Federal Standards — Each vehicle must meet the vehicle safety standards prescribed by the U.S. Department of Labor's regulations under the Migrant and Seasonal Agricultural Worker Protection Act (*see entry, U.S. — Transportation*).

Occupancy — The number of occupants in any vehicle used to transport workers may not exceed the manufacturer's specifications, but in no case may the number exceed 12 at any time. In the case of a 15-passenger van, the seating immediately behind the rear axle must be removed, limiting maximum occupancy to 11 passengers.

Equipment — Every vehicle used for worker transportation must be equipped with a working seat belt for each worker and a functional first aid kit that meets federal standards. There must not be any device or cargo on the vehicle that interferes with operation of the rear door, the side doors or windows. Attachments on the roof for carrying gear are not permitted.

Drivers — Anyone driving a vehicle used to transport workers must meet the driver qualifications and follow the driving standards in the regulations referenced above. Except in an emergency, a worker who performs agricultural labor is not allowed to operate a worker transportation vehicle for more than 2 hours a day.

Insurance — A worker transportation vehicle must be insured for at least the same minimum liability level as required by the state.

Emergency Preparedness — Each vehicle must have communication equipment capable of providing the most immediate access to emergency medical services, and there must be a driver available at or near the worksite at all times during the workday. For each job site, there must be an emergency action plan, written in language understandable by the workers, that includes information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who cannot be moved.

ENFORCEMENT: *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333 (207-623-7900).* This agency may inspect vehicles subject to these provisions and has authority to enforce compliance.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

WAGES AND HOURS

● WAGE PAYMENT LAWS

TERMS:

Paydays and Pay Periods — At least as often as every 16 days, an employer must pay in full all wages earned by each employee. Each payment must include all wages earned to within 8 days of the payment date.

Payroll Records — Every employer must keep a true record of the date and amount of each wage payment to each employee, as well as a daily record of the time worked by each hourly employee.

Pay at Termination — A worker leaving his or her employment must be paid in full by the next regular payday, or within 2 weeks after the worker requests it, whichever is earlier. The employer may deduct any loan or advance against future wages only if the loan or advance is covered by a written statement signed by the worker.

ENFORCEMENT: *Bureau of Labor Standards, Maine Department of Labor, Augusta, Maine 04333.*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● MAINE INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year — or within 30 days after the last payment of wages, in the case of a worker whose job ends before the end of the current year — the employer must provide each worker from whom state income tax was withheld a statement showing the total amount of wages paid and the amount of state income tax withheld from the worker's pay during the year being reported.

ENFORCEMENT: *Withholding Division, Maine Revenue Services, Department of Administrative and Financial Services, Augusta, Maine 04332 (207-626-8475).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Maryland

CHILD LABOR

● COMPULSORY ATTENDANCE LAW

TERMS: Each child who lives in Maryland, and who is at least 5 years old but has not yet reached age 17 (age 18 beginning July 1, 2017), must regularly attend a public school during the entire school year, unless the child is receiving state-approved equivalent instruction. Any person who has such a child in his or her control must see that the child meets the school attendance requirement.

ENFORCEMENT: These provisions are enforced through the courts, by the county school boards, school superintendents, and local law enforcement agencies.

● MARYLAND WORKERS' COMPENSATION ACT (*ILLEGALLY EMPLOYED MINORS*)

TERMS: When a minor is injured or killed on the job and the minor was employed in violation of the state child labor laws at the time of the accident, the state Workers' Compensation Commission is authorized to award *double* the amount of compensation or death benefits the worker or the worker's family would ordinarily be entitled to under this law. The employer alone, and not the workers' compensation insurance provider, is responsible for the increased cost of the benefits.

ENFORCEMENT: *Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297).*

CIVIL RIGHTS

● HUMAN RELATIONS LAW

TERMS: Employers who had 15 or more workers on each working day in 20 or more calendar weeks this year or last are generally prohibited from committing any of the following acts, among others:

- (1) Refusing to hire a job applicant, firing a worker, or otherwise discriminating against any individual with respect to wages, or the terms and conditions of employment, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, genetic information, or disability.
- (2) Limiting, segregating or classifying workers or job applicants on any of the grounds listed above, in a way which would deprive them of job opportunities or otherwise negatively affect their employment.
- (3) Publishing any employment notice or advertisement which indicates any preference or discrimination based on race, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability (except where religion, sex, age, national origin, marital status, or disability is a bona fide occupational qualification for employment).

Similar discriminatory acts by employment agencies and labor organizations are also illegal.

ENFORCEMENT: *Maryland Commission on Civil Rights, Baltimore, Maryland 21202 (410-767-8600; toll-free 800-637-6247).* A worker who has been subjected to unlawful employment discrimination may file a complaint with the Commission at any time within 6 months after the discrimination occurred.

If a worker has filed a complaint with the Commission and at least 180 days have elapsed since the complaint was filed, the worker may take action against the employer involved in civil court, using a private attorney or public legal service provider. Any such civil action, however, must be filed no later than 2 years after the unlawful employment practice occurred.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● EQUAL PAY FOR EQUAL WORK LAW

TERMS: With very limited exceptions, no employer may discriminate by paying wages or salaries to workers of one sex at a rate less than that paid workers of the opposite sex for essentially equal work, or work in the same operation, at the same workplace.

This does not prohibit different pay rates for jobs requiring different skills or abilities, or differing rates based on seniority or merit, as long as such systems do not discriminate on the basis of sex.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. A private lawsuit may not be filed any later than 3 years after the violation occurred.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: It is illegal for an employer to fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

HEALTH AND SAFETY

● MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state labor commissioner has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to all farm operations in the state.

ENFORCEMENT: *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

TERMS: Under Maryland's occupational safety and health law, the state labor commissioner has adopted regulations requiring agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are very similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*), although the Maryland regulations allow employers to reduce the number of toilets they provide if the units are serviced frequently.

Also, while the federal standards do not require employers to provide drinking water, toilets or handwashing facilities where fewer than 11 workers are employed on any given day, farm employers in Maryland must furnish drinking water to their workers, regardless of the number of employees; the toilet and handwashing requirements, however, apply only to operations with 11 or more workers.

ENFORCEMENT: *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

HOUSING

● MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, the state labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Maryland's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● ATTORNEY GENERAL OPINION NO. 82-024

TERMS: Farm operators and other agricultural producers may not keep representatives of public or private agencies which provide services to migrant workers from entering migrant labor camps under their control or ownership, nor may they exclude anyone else who is invited onto the property by a resident. If a worker informs the camp owner or operator that he or she is expecting a visitor, the owner or operator may not ask about the purpose of the visit; in any other case, the owner or operator may require visitors to identify themselves and state the general purpose of their visit.

Representatives of government agencies or private farmworker service organizations may enter a camp, seek out workers, and remain in the camp for as long as any resident is utilizing their services, without the presence of the camp owner or operator.

ENFORCEMENT: The right of access and visitation at migrant labor housing facilities may be enforced through the courts. Any worker who is denied communication with anyone at the worker's place of residence in Maryland should consult with a private attorney or a public legal services program.

● FARM LABOR CONTRACTORS LAW

TERMS: Before bringing migrant farmworkers into Maryland to work, or before recruiting migrant workers within the state, a farm labor contractor must give the workers a written statement explaining the terms under which housing (if any) is to be provided to the workers, and the costs to be charged for the use of such housing.

Whenever a contractor provides housing for migrant agricultural workers, the contractor must post the terms and conditions of occupancy in a clearly visible place at the housing site throughout the time the workers are living there.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).*

INSURANCE AND COMPENSATION

● MARYLAND UNEMPLOYMENT INSURANCE LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 agricultural workers for any part of a day in 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits. Benefits currently range from \$50 to \$430, depending on the worker's past earnings. Unemployment recipients may also qualify for an additional allowance for dependents.

ENFORCEMENT: *Division of Unemployment Insurance, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21202 (410-767-2483).* Applications for unemployment compensation may be filed online at <https://secure-2.dllr.state.md.us/NetClaims/Welcome.aspx>, or by phone at 877-293-4125 (toll-free).

● MARYLAND WORKERS' COMPENSATION ACT

TERMS: Farm operators and other agricultural establishments that have 3 or more full-time workers, or pay at least \$15,000 a year in wages to full-time workers, are legally responsible for paying medical expenses and related costs when any of their workers is injured in an accident connected with the job, as well as regular cash benefits to compensate for lost wages. Most employers meet this responsibility by purchasing workers' compensation insurance through a private company.

In general, a farmworker is entitled to workers' compensation benefits in the event of a job-related accident, or disablement due to an occupational disease, which occurs while the worker is employed by any such employer.

Exception — The law *does not apply* to farmworkers (other than those operating machinery or equipment) who are employed in farmwork within 25 miles of their permanent place of residence and for only 13 weeks or less during the year.

ENFORCEMENT: *Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297).* To protect the right to benefits, notice of a worker's injury on the job must normally be given to the employer within 10 days after the accident, or within 30 days after a death resulting from such an accident. Workers' compensation claims generally are not valid unless filed with the Commission within 60 days after an injury or 18 months after a death.

SPECIAL NOTE: It is illegal for an employer to fire a worker because the worker has filed a workers' compensation claim.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CONTRACTORS LAW

TERMS:

Licensing — With the exceptions noted below, no person may charge money to recruit, solicit, hire, employ, supply, transport or house migrant farmworkers in Maryland unless the person holds a valid certificate of registration issued by the state. Registered farm labor contractors must carry their certificate at all times while performing contracting activities in the state and must show the certificate to everyone they deal with in that capacity.

Exceptions — The licensing requirement does not apply to farm operators or agricultural processors who perform farm labor contracting activities exclusively for their own operations, or to anyone (other than a farm labor contractor) who has been supplied with no more than 10 migrant workers at any one time during both the current and preceding years. Likewise, the law does not apply to any person who performs farm labor contracting activity only within Maryland, only within 25 miles of the person's permanent place of residence, and for not more than 13 weeks a year.

Duties and Responsibilities —

Disclosures — Before bringing migrant farmworkers into Maryland to work, or before recruiting migrant farmworkers within the state, every farm labor contractor must give each worker a statement showing (1) the places where employment will take place and a description of the crop operations involved, (2) the terms and conditions of employment at each location, including what wage rates will be paid, who will be making payment, and when wages will be paid, (3) the transportation, housing and insurance (if any) to be provided and the costs to be charged for each such service or benefit, and (4) the existence of any strike or other labor dispute at each worksite.

Housing — If a labor contractor provides any housing for the workers, the contractor must post the terms and conditions of occupancy in a clearly visible place at the housing site throughout the time the workers are living there.

Form of Disclosure — All information required to be provided to the workers by a labor contractor must be given in writing, in English or, as necessary and reasonable, in Spanish or any other language understandable by those workers not fluent or literate in English.

Vehicles — Farm labor contractors who use vehicles for transporting migrant agricultural workers in Maryland, or who cause vehicles to be used for that purpose, must (1) assure that each such vehicle conforms to applicable federal and state safety standards, (2) ensure that each driver has a valid and appropriate class of license to operate the vehicle, and (3) have the required level of insurance coverage against liability for injury to persons or property arising from the ownership or operation of any such vehicle.

Verification of License — It is illegal for a farm operator or any other person to use the services of a farm labor contractor unless the person first verifies that the contractor has a valid registration certificate. Furthermore, no one may use or continue to use a contractor once he or she is notified by the state enforcement agency or otherwise becomes aware that the contractor lacks a certificate or that the certificate has been suspended or revoked.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE APPLICATOR'S LAW

TERMS:

Certification of Applicators — Individuals who are in the business of applying pesticides to other people's property for hire, as well as private agricultural producers who apply restricted pesticides to their own crops, must have a certificate issued by the state, affirming their competence to use and apply such products safely. Applicants for any commercial-class certificate must demonstrate competence by passing a written examination, while private applicators have the option of enrolling in a state-approved training course.

Insurance — Each business performing pest control work must provide the state agency with proof of financial responsibility by obtaining and maintaining liability insurance. The policy must provide bodily injury coverage of at least \$100,000 per person and \$300,000 per occurrence, and property damage coverage of at least \$15,000 per occurrence and \$30,000 annual aggregate.

Employee Training — Within 30 days after they are hired, employees of licensed pesticide applicators who perform pest control operations must successfully complete state-approved training and must be registered by the state enforcement agency.

Pesticide Application Practices — All commercial applications of any pesticide must be under the supervision of a certified applicator, and private agricultural application of restricted pesticides must be performed by or under the supervision of a certified private applicator. It is illegal for anyone to use or apply any pesticide contrary to the instructions and warnings on the product's label.

ENFORCEMENT: *Pesticide Regulation Section, Maryland Department of Agriculture, Annapolis, Maryland 21401 (410-841-2766).*

A person who has suffered injury from a pesticide application has a right to sue the applicator for damages, using a private attorney or a public legal services program.

● MARYLAND OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

TERMS: Under Maryland's occupational safety and health law, the state labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Maryland's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural operations in the state.

ENFORCEMENT: *Maryland Occupational Safety and Health Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Hunt Valley, Maryland 21031 (410-527-4499).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

TRANSPORTATION

● FARM LABOR CONTRACTORS LAW

TERMS: Farm labor contractors who use vehicles to transport migrant agricultural workers in Maryland must comply with certain transportation requirements, summarized below. In general, these apply only to individuals who perform farm labor contracting services (1) beyond a 25-mile radius of their permanent place of residence, or (2) both within and outside the state of Maryland, or (3) for more than 13 weeks a year.

Vehicle Safety Standards — Each vehicle used to transport migrant farmworkers must conform to applicable federal and state safety standards.

Driver Licensing — Each driver of a vehicle used to transport migrant farmworkers must have a valid and appropriate class of license to operate the vehicle.

Insurance — Each vehicle must be insured against liability for injury to persons or property. For vehicles designed for 12 or fewer passengers, the minimum liability limits for bodily injury are \$100,000 per person and \$300,000 per accident, and \$50,000 for property damage. In the case of vehicles designed for more than 12 passengers, minimum coverage for bodily injury per accident increases to \$500,000.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).* Representatives of this agency are authorized to inspect vehicles subject to these provisions, examine the driver's license of anyone operating such a vehicle, and request proof of insurance.

WAGES AND HOURS

● MARYLAND WAGE AND HOUR LAW (*MINIMUM WAGE*)

TERMS: The Wage and Hour Law establishes a state minimum wage of \$8.75 an hour beginning July 1, 2016. The minimum wage is scheduled to rise to \$9.25 on July 1, 2017, and \$10.10 on July 1, 2018.

Coverage in Agriculture — Farm operators and other agricultural establishments that used more than 500 worker-days of agricultural labor in any calendar quarter during the preceding year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December) are generally required to pay their agricultural workers no less than the state minimum wage for every hour of employment.

Exceptions — The minimum wage *does not apply* to workers in either of the following categories:

- (1) Individuals who (a) are employed as hand-harvest workers, (b) are paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (c) commute to the farm daily from their permanent residence, and (d) were employed in agriculture for less than 13 weeks in the preceding calendar year.
- (2) Workers 16 years of age or younger who (a) are employed as hand-harvest workers, (b) are paid on a piecework basis in a recognized piecework operation, (c) are employed on the same farm as their parent or guardian, and (d) are paid at the same piece rate paid to workers over age 16 on the same farm.

Recordkeeping and Posting — Farm employers covered by the Wage and Hour Law must keep a record of the name, address and occupation of each worker, the worker's rate of pay, the amount paid each pay period, and the hours worked each day and each workweek. The employer is also required to post a summary of the law and its associated regulations in a place easily accessible by the workers.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).* A worker who has not received full wages in accordance with the law may file a wage claim with the Department.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of the wages, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MARYLAND WAGE AND HOUR LAW (*HOURS AND OVERTIME*)

Overtime Pay — A farm employer who used more than 500 worker-days of agricultural labor in each calendar quarter of the preceding calendar year must pay each covered worker overtime wages equal to $1\frac{1}{2}$ times the worker's usual hourly wage rate, but only for any time worked in excess of 60 hours during any workweek.

Exceptions — The overtime pay requirement *does not apply* to workers in either of the following categories:

- (1) Individuals who (a) are employed as hand-harvest workers, (b) are paid on a piece-rate basis in an operation generally recognized as a piecework operation in the region, (c) commute to the farm daily from their permanent residence, and (d) were employed in agriculture for less than 13 weeks in the preceding calendar year.

- (2) Workers 16 years of age or younger who (a) are employed as hand-harvest workers, (b) are paid on a piecework basis in a recognized piecework operation, (c) are employed on the same farm as their parent or guardian, and (d) are paid at the same piece rate paid to workers over age 16 on the same farm.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).* A worker who is employed by an employer subject to the Wage and Hour Law and who does not receive overtime pay as required may file a wage claim with the Department.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of overtime and other unpaid wages, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MARYLAND WAGE PAYMENT AND COLLECTION LAW

TERMS:

Pay Periods and Paydays — In general, every employer must establish regular pay periods and pay all employees at least once every 2 weeks or semi-monthly. If the regular payday falls on a non-workday, employees must be paid on the preceding workday. Employers must notify employees at the time of hiring as to their respective rates of pay and the regular designated payday.

Method of Payment — Wages must be paid in lawful U.S. currency, by check payable at face value on demand in lawful U.S. currency, by direct deposit to a bank account specified by the worker, or with a debit card. Any fees that apply to use of a debit card must be disclosed to the worker in writing, in at least 12-point font.

Pay Statements — Employers must furnish each worker with a statement of gross earnings and deductions for each pay period.

Wage Deductions — Under most circumstances, no employer may make any deduction from a worker's wages unless the deduction is authorized by law, formally ordered by a court, or expressly authorized in writing by the worker.

Final Pay — Whenever the job ends, a worker must receive all wages due, for all services performed, on or before the date the worker would have been paid for the services had the employment not ended.

ENFORCEMENT: *Employment Standards Service Unit, Division of Labor and Industry, Maryland Department of Labor, Licensing and Regulation, Baltimore, Maryland 21201 (410-767-2357).* A worker who has not received wages, or has not been paid in accordance with these provisions, may file a claim or complaint with the Department.

As an alternative to enforcement action by the Department, after 2 weeks have passed from the date on which an employer is required to have paid the wages, a worker who has not received pay in accordance with these provisions may take legal action against the employer to collect unpaid wages directly, using a private attorney or a public legal service provider.

● INCOME TAX LAWS

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year, the employer is required to provide the worker with a written statement showing the employer's name, the worker's name, the worker's total wages, and the amount of state income tax withheld.

ENFORCEMENT: *Comptroller of Maryland, Annapolis, Maryland 21411 (410-260-7980).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Massachusetts

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Age Restrictions —

Children Under Age 14 — Children under 14 may not work in agriculture during the hours when the public schools are in session. Outside school hours and on non-school days, children under 14 may work only between 6:30 a.m. and 6:00 p.m. No one under the age of 14 may be employed in farmwork for more than 4 hours in any one day, or more than 24 hours in any one week, unless related by blood or marriage to the farm owner or operator.

Children Age 14 and 15 — As in most other industries, 14- and 15-year-olds are not allowed to work in agriculture during school hours, or between the hours of 7:00 p.m. and 6:30 a.m. (between 9:00 p.m. and 6:30 a.m. from July 1 through Labor Day). Persons 14 and 15 years of age may not work more than 6 days or 48 hours in any one week, or more than 8 hours in any one day. Furthermore, if the work performed by any such child in a day is not continuous, but is divided into two or more periods, the employer must arrange the child's work so that all such periods of work fall within a span of 9 consecutive hours, including time spent in school. Such minors must generally obtain an employment permit from the local school superintendent, authorizing them to work for the particular employer specified in the permit.

Children Age 16 and Over — There are generally no restrictions or limitations on the employment in agriculture of any worker 16 years of age or older.

Hazardous Occupations — In general, no one under 16 may be employed in ensilage cutting, on or around hazardous machinery or gearing when it is in motion, on moving motor vehicles, or in stripping, sorting or packing tobacco.

Meal Time — No minor (or anyone else) may be required to work for more than 6 hours during a calendar day without a break of at least 30 minutes for a meal.

ENFORCEMENT: *Fair Labor Division, Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).* Local school attendance officers may also assist in enforcing the child labor laws.

● SCHOOL ATTENDANCE LAW

TERMS: In general, every child between the ages of 6 and 16 who lives in Massachusetts must attend a public school, or receive approved private instruction, during the entire regular school year. Every person who has control of any such child must make sure that the child attends school as required.

ENFORCEMENT: These provisions are enforced in the courts, through local attendance supervisors employed by the respective school committees.

● WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

TERMS: A minor who is employed in farmwork in violation of the state child labor laws at the time of a work-related accident is generally entitled to *twice* the normal workers' compensation award that would otherwise be payable for the injury; double benefits may be paid to the worker's dependents if the worker dies as a result of the injury.

As a penalty for violating the child labor laws, the employer, not the employer's insurance company, is legally responsible for paying the extra compensation.

ENFORCEMENT: *Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249).*

CIVIL RIGHTS

● STATE CIVIL RIGHTS LAW

TERMS: Farm operators and most other employers with 6 or more workers are forbidden — on the grounds of an individual's race, color, religious creed, national origin, sex, gender identity, sexual orientation, genetic information, ancestry, or status as a veteran — from firing or refusing to hire the individual, or from discriminating against the individual with respect to wages or the terms or conditions of employment, unless such treatment is based on a valid job qualification. Moreover, it is unlawful for a private employer to fire, refuse to hire, or otherwise discriminate against a person who is at least 40 years old, because of the person's age.

Any employment-related advertisement or notice, or any job application form, circulated or used by an employer or employment agency which expresses any preference or discrimination as to race, color, religious creed, national origin, sex, gender identity, sexual orientation, age, genetic information, ancestry, or the handicap of a qualified handicapped person is likewise illegal, unless based on a bona fide occupational qualification.

ENFORCEMENT: *Massachusetts Commission Against Discrimination, Boston, Massachusetts 02108 (617-994-6000).* Anyone who is subjected to unlawful employment discrimination may file a complaint with the Commission, but no later than 300 days after the discrimination took place.

At any time after 90 days following the filing of a complaint with the Commission, the worker may take legal against the employer involved directly, using a private attorney or a public legal services program. Such action may not commence any later than 3 years after the unlawful practice occurred.

SPECIAL NOTE: It is illegal to intimidate, threaten, interfere with, or discriminate against a worker because he or she has filed a complaint under this law, testified or participated in any other way in a related investigation or hearing, or exercised any other right granted by this law.

HEALTH AND SAFETY

● PUBLIC HEALTH LAWS (*FIELD SANITATION*)

TERMS: Under regulations authorized by the state public health laws, farm employers who operate a farm labor camp, or who provide other housing facilities for the use of 2 or more farmworkers, must provide drinking water and toilet facilities to camp occupants while they are on the job, as summarized below.

Drinking Water — Where clean running water is not available, operators of farm labor camps are required to make drinking water readily available to both shed and field workers. Water must be kept in covered containers which have been disinfected and maintained in clean and sanitary condition.

Toilet Facilities — When farm activities require workers to be more than 750 feet from the main toilet facilities at the camp and transportation to the camp is not immediately available, the camp operator must provide toilets within 750 feet of the work area. There must be at least one such unit for every 100 workers, with separate facilities for each sex. The camp operator is responsible for maintaining a sufficient supply of toilet paper, and for keeping the facilities clean, sanitary and in good repair.

ENFORCEMENT: *Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757).* The Department may respond to any complaint regarding violations of the field sanitation provisions in the farm labor camp rules.

These provisions may also be enforced by local boards of health.

HOUSING

● PUBLIC HEALTH LAWS (*FARM LABOR CAMPS*)

TERMS:

Certificates of Occupancy — Any building or vehicle that contains sleeping facilities provided in connection with farm employment, and that is occupied by or intended to house 2 or more farmworkers or members of their families, must be inspected each year by the state enforcement agency or the local board of health. If a camp meets minimum state standards, the state agency will issue a certificate of occupancy, which must be posted at the camp before the facility may be occupied.

Inspection Standards — Farm labor camps must meet detailed safety and health standards contained in the state public health regulations. Among the factors considered in determining if a camp meets the standards are these:

- The size and condition of camp structures and living areas
- The water supply
- The sewage disposal system
- Lighting and electrical facilities
- Availability and condition of door and window screens
- Toilet facilities
- Bathing facilities
- Cooking and eating facilities
- Sleeping accommodations
- Exits in case of emergency
- Laundry facilities
- Heating equipment
- Insect and rodent control measures
- Trash disposal equipment and procedures
- Safety conditions and equipment
- Hazardous material storage

ENFORCEMENT: *Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757).* Any occupant of a farm labor camp or other interested party who has knowledge of a violation of the farm labor camp standards may file a complaint with the Department or the local board of health. The state agency is required to investigate each such complaint within 30 days after filing.

● PUBLIC HEALTH LAWS (ACCESS TO FARM LABOR CAMPS)

TERMS: During the period of employment, migrant farmworkers who share living quarters with their employer or reside on the employer's property have the right to enter and leave the property at will. Likewise, workers occupying housing other than the employer's own residence are entitled to have visitors in their living quarters outside regular working hours under reasonable rules. In either case, the certificate of occupancy issued for the housing facility by the state must include a notification of these rights, in English and Spanish.

ENFORCEMENT: *Community Sanitation Program, Bureau of Environmental Health, Massachusetts Department of Public Health, Boston, Massachusetts 02108 (617-624-5757).* A migrant worker who is living in a farm labor camp or other housing furnished by the employer and who is denied access to such housing, or whose guests are denied access, may file a complaint with the Department or the local board of health.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT INSURANCE LAW

TERMS: Farm operators and other agricultural employers who paid cash wages of \$20,000 or more for farm labor during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more agricultural workers for any part of a day in 20 or more weeks during the year, are required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits, the amount of which depends on the worker's past earnings. UI recipients may also qualify for an additional allowance for dependents.

ENFORCEMENT: *Massachusetts Department of Unemployment Assistance, Boston, Massachusetts 02114 (617-626-6500).* Workers wishing to apply for unemployment benefits may do so online, at www.mass.gov/lwd/unemployment-insur/claimants/.

● WORKERS' COMPENSATION LAW

TERMS: Farmworkers who are injured in the course of their employment are entitled to immediate medical treatment and required hospital services, doctors' services, medicines and related benefits, all at the employer's expense. Workers who are disabled as a result of a job-related injury generally also qualify for weekly cash payments to compensate for lost income.

Most employers meet their responsibility to cover such expenses by obtaining workers' compensation insurance.

ENFORCEMENT: *Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249).* A worker who is injured on the job should promptly notify the employer. Any disagreement over the payment of benefits may be reported to the Department for investigation.

● MINIMUM FAIR WAGE LAW (*MIGRANT WORKER COMPULSORY HEALTH INSURANCE*)

TERMS: Every agricultural employer who employs and furnishes housing to a migrant farmworker not under a government-approved employment contract must, after 10 days of employment, provide the worker with health insurance covering hospitalization, hospital services and supplies, X-ray examination, surgical fees, and in-hospital doctors' fees.

The employer is required to pay at least 60 percent of the cost of providing coverage, but the employer may deduct up to 40 percent of the weekly premium from the worker's wages. In any week when an insured worker is disabled and unable to work, the employer is legally responsible for paying the entire premium for that week.

ENFORCEMENT: *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952).* A migrant farmworker who is living in housing provided by the employer, has been on the job for more than 10 days, and has reason to believe he or she is not covered by a required health insurance policy should contact the Department.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS: Individuals or businesses that charge a fee to find employment for workers in Massachusetts (which may include farm labor contractors and crew leaders) are required to be licensed as employment agencies and meet other restrictions on their activities.

Licensing — No one may open, operate or advertise an employment agency without obtaining a license to do so from the state.

Bonding — Each licensed employment agency must obtain a bond in the amount of \$3,000 as security for the payment of any damages caused in connection with the agency's activities.

Recordkeeping — The agency must keep a register of all applicants seeking employment and all employers seeking workers. The record must include the nature of the employment involved, the wages offered or accepted, and the fees paid by the worker or the employer. These records must be kept for at least 3 years.

Prohibited Acts — Among other violations, it is illegal for an employment agency, whether licensed or not, (1) to publish any false, fraudulent or misleading information about employment, (2) to send a worker to a job site without first obtaining a valid job order, or (3) to send a worker to a job site affected by a strike.

ENFORCEMENT: *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952).*

LABOR RELATIONS AND UNION REPRESENTATION

● STATE LABOR RELATIONS LAW

TERMS: Whenever there is a dispute concerning the representation of farmworkers employed by a person or firm with more than 4 agricultural workers, the state must arrange for a secret-ballot election or other appropriate means of resolving the question.

Representatives selected by the majority of the employer's workers for purposes of negotiating with the employer over terms and conditions of the job are the exclusive representatives of all the employer's workers for such purposes. However, any individual worker or group of workers has the right at any time to present complaints to the employer directly.

ENFORCEMENT: *Massachusetts Department of Labor Relations, Boston, Massachusetts 02114 (617-626-7132).*

PESTICIDES AND AGRICULTURAL CHEMICALS**● MASSACHUSETTS PESTICIDE CONTROL ACT****TERMS:**

Licensing and Certification — No individual may apply non-restricted pesticides for hire unless the individual is properly licensed or certified by the state. Likewise, no one may use any restricted pesticide unless he or she is certified as a commercial or private applicator, or is a licensed applicator working under the direct supervision of a properly certified commercial or private applicator. Each applicant for certification or licensing must file an annual application, pay an application fee, demonstrate competence with respect to the use and handling of pesticides, continue to attend state-approved educational courses, and maintain required levels of liability insurance covering injuries and damages caused by their pesticide operations.

Prior Notice of Pesticide Applications — No pesticide with the signal word "Danger" on the label may be applied to an agricultural crop within 50 feet of a public right-of-way unless notice of the application is given beforehand. Between 2 and 24 hours before the application, signs must be posted at least every 200 feet around the area to be treated, and at every main entrance to the area, facing the public way. The signs must be at least 14 inches by 16 inches in size and contain the words "Danger," "Pesticides," and "Keep Out" — in English and Spanish, and in letters at least one inch high. The signs must be removed no earlier than 48 hours after the application, and no sooner or later than the expiration of the restricted-entry period specified on the pesticide label.

Prohibited Acts — Among other unlawful activities defined in this law, no one may use a registered pesticide contrary to the product's label instructions or contrary to other restrictions imposed by the state enforcement agency. It is also illegal for any person licensed or certified as a pesticide applicator to violate any condition or restriction on the applicator's license or certification.

ENFORCEMENT: *Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781).*

● MASSACHUSETTS PESTICIDE CONTROL ACT (AERIAL APPLICATORS)**TERMS:**

Aerial Applicator Certification — No one is allowed to apply pesticides by aircraft unless specifically certified by the state as an aerial applicator.

Application Permits — At least 21 days before an airplane may be used to apply pesticides to a particular field, a permit must be obtained from the state, authorizing treatment of the field. The state agency will not issue such a permit until it can be determined that aerial application will not, among other things, be likely to cause injury to humans.

Prior Notice of Aerial Applications — Agricultural fields that are within 500 feet of a protected area (such as a school, hospital, residence or other building where people gather) and that are targeted for treatment by pesticides from the air must be posted with warning signs between 2 and 24 hours before the application. The signs must remain in place at least 48 hours after the field is treated and be removed no sooner than the expiration of the product's restricted entry interval. Each sign — at least 14 inches by 16 inches in size, and in at least one-inch lettering — must include the words "Danger," "Pesticides," "Keep Out," and the corresponding terms in Spanish.

Application Restrictions — Among other restrictions, aerial agricultural applications are prohibited when there is visible drift to non-target areas, and pilots are generally forbidden to make turns over protected areas and bodies of water.

ENFORCEMENT: *Pesticide Enforcement, Division of Crop and Pest Services, Massachusetts Department of Agricultural Resources, Boston, Massachusetts 02114 (617-626-1781).*

● PUBLIC HEALTH LAWS (HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS)**TERMS:**

Safety Data — Every farm operator or other employer who uses or stores toxic or hazardous substances at the workplace must make certain printed information about each of those substances available to the workers at a central location at the place of employment. This information, known as a "material safety data sheet," must include the name of the substance, the risks associated with its use, the precautions to be followed and necessary protective equipment to be used, appropriate emergency procedures, and related facts

Right to Information — A farmworker (or the worker's designated representative) may request, and has a right to receive from the employer, a material safety data sheet for each toxic or hazardous substance to which the worker is, has been, or may be exposed on the job. The employer generally must provide data sheets within 4 working days of a request. Also, the employer must post a notice in a central location, informing workers of their rights under these provisions.

Training — Within the first month of employment and at least once a year after that, employers must instruct their workers regarding the nature and effects of the hazardous substances present in the workplace. Instruction may be provided in written form or through training programs, but in either case must be presented in non-technical language. Employers are required to cover such topics as the identity of each toxic substance involved, its location at the workplace, appropriate first-aid treatment in the event of overexposure, proper handling practices, the health effects of the substance, and the rights and duties of workers under this law.

ENFORCEMENT: *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6975).*

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

WAGES AND HOURS

● MINIMUM FAIR WAGE LAW

TERMS:

Agricultural Minimum Wage — Farm operators and other agricultural employers are required to pay their agricultural employees at least \$8.00 an hour.

Exception — The agricultural minimum wage *does not apply* to workers 17 years of age or under.

ENFORCEMENT: *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952).* A farmworker who has not received the agricultural minimum wage may file a complaint with the Department.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● STATE LABOR LAWS (MEAL PERIODS)

TERMS: With very few exceptions, no one may be required to work for more than 6 hours on any day without a period of at least 30 minutes for a meal.

ENFORCEMENT: *Office of the Massachusetts Attorney General, Boston, Massachusetts 02108 (617-727-2200; Fair Labor Hotline 617-727-3465).*

● WAGE PAYMENT LAWS

TERMS:

Paydays and Pay Periods — Workers generally must be paid at least once a month, but regardless of the length of the pay period, employers must pay wages earned by each worker to within 6 days of the date of payment (or within 7 days in the case of a worker employed 7 days a week).

Final Pay — A worker who leaves his or her job must receive final pay in full on the next regular payday, or on the following Saturday if there is no regular payday. Whenever a worker is laid off or fired by the employer, final wages must be paid in full on the day of termination.

Pay Statements — Each time wages are paid, employers are required to furnish their employees with a written statement showing the name of the employer, the name of the employee, the date, the number of hours worked, the hourly pay rate, and the amount of any deductions from pay.

Method of Payment — An employer who pays wages by check or draft must make arrangements for the cashing of payroll checks at a bank or elsewhere, without charge or discount.

Deductions from Pay — Each time an employer makes a deduction from the wages of any worker for Social Security, health insurance, or any other benefit, the employer must give the worker a written statement showing the amount and nature of each such deduction at the time of payment. Employers are forbidden from penalizing a worker for being late to work by deducting from wages any amount other than the wages the worker would have earned during the time actually lost.

ENFORCEMENT: *Massachusetts Department of Labor Standards, Boston, Massachusetts 02114 (617-626-6952).*

As an alternative to filing a complaint with the Department, a worker affected by a violation of the wage payment laws may take action in civil court against the employer directly, using a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● STATE INCOME TAX LAWS (*WITHHOLDING OF TAXES ON WAGES*)

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year — or, if an employee's job ends before the end of the year, within 30 days from the last payment of wages — the employer is required to provide each employee with a written statement showing the name of the employer, the name and Social Security number of the employee, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax.

ENFORCEMENT: *Massachusetts Department of Revenue, Boston, Massachusetts 02204 (617-887-6367; toll-free 800-392-6089).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Michigan

CHILD LABOR

● YOUTH EMPLOYMENT STANDARDS ACT

TERMS:

Hazardous Occupations — The Youth Employment Standards Act, which regulates the employment of workers under the age of 18 in Michigan, generally *does not apply* to farmwork, as long as employment takes place outside school hours and does not violate regulations adopted by the state school superintendent. The only agriculturally related activities currently identified in the superintendent's administrative rules as hazardous, and thus generally closed to minors under the age of 18, are work involving hazardous substances (which may include pesticides), operation of high-power tractors, and work requiring the use of ladders.

Employment in the Production of Seed — The Act does include restrictions on the employment of minors in detasseling, roguing, hoeing, and similar farming operations involved in the production of seed:

Days and Hours of Employment — With parental consent, and only outside school hours or when not enrolled in school, minors 16 years of age or older may be employed in these operations for up to 11 hours in one day and up to 62 hours in any one week. An employer may not require work in excess of 48 hours a week without the minor's consent. Work cannot take place between 2:00 a.m. and 5:30 a.m.

Without parental consent, 16- and 17-year-olds may work in these operations only outside school hours, or when not enrolled in school, for up to 6 days in one week, no more than an average of 8 hours per day in one week, no more than 10 hours in any one day per week, and no more than 48 hours per week when school is out for 7 consecutive days or more. Work cannot take place between 11:30 p.m. and 6:00 a.m.

Work Permits — As long as the employment occurs during school vacation periods, or when the worker is not regularly enrolled in school, minors 13 years of age and older may work in such operations without first obtaining a work permit.

ENFORCEMENT: *Office of Career and Technical Education, Michigan Department of Education, Lansing, Michigan 48909 (517-335-6041).*

● REVISED SCHOOL CODE (*COMPULSORY SCHOOL ATTENDANCE*)

TERMS: In general, every parent, guardian or other person in Michigan having control of a child from the age of 6 to the child's 16th birthday must send the child to a public school, or to an approved non-public school or home school, during the entire school year.

ENFORCEMENT: These provisions are enforced by school attendance officers and other local school personnel.

● STATE LABOR LAWS (*WORK AWAY FROM HOME LOCALITY*)

TERMS: It is unlawful for any person or firm to promise wages or use any similar method to persuade a child under 16 years of age to leave home for purposes of employment, without the written permission of the child's parents and the consent of school officials at the home location. If such consent is obtained and the child accepts the recruitment offer, the child must be returned home safely upon the written request of his or her parents.

ENFORCEMENT: These provisions are enforced by public prosecuting attorneys in criminal court.

CIVIL RIGHTS

● ELLIOTT-LARSEN CIVIL RIGHTS ACT

TERMS:

Prohibited Acts — It is unlawful for an employer in Michigan to refuse to hire a job applicant, or to fire or discriminate in any other way against an employee, on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status. Circulating an employment notice, or using a job application form, which indicates a preference or limitation based on religion, race, color, national origin, age, sex, height, weight, or marital status, is also illegal.

Employers are further prohibited from requesting information, or making any record, regarding the arrest of a job applicant or employee when the arrest did not result in a conviction.

Similar acts of discrimination by employment agencies and labor organizations are not permitted.

Exception — Where religion, national origin, age, height, weight or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise, an employer, employment agency or labor organization may use such a qualification.

ENFORCEMENT: *Michigan Department of Civil Rights, Lansing, Michigan 48933 (517-335-3165; toll-free 800-482-3604).*

In addition to filing a complaint with the state agency, a worker may sue an employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WORKFORCE OPPORTUNITY WAGE ACT (*EQUAL PAY*)

TERMS: An agricultural employer who (a) has 2 or more workers, and (b) used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year — for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination — is generally prohibited from paying any worker less than he or she pays workers of the opposite sex for equal work, on jobs that require equal skill, effort and responsibility and are performed under similar working conditions.

Wage differences that are based on factors other than sex — including seniority, merit, and quantity or quality of production — are generally not considered discriminatory.

ENFORCEMENT: *Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243).*

Instead of filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. In either case, the complaint or suit must be filed within 3 years after the violation occurred.

SPECIAL NOTE: It is illegal for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

● WHISTLEBLOWERS' PROTECTION ACT

TERMS: It is illegal for an employer in Michigan to fire, threaten or otherwise discriminate against a worker regarding the terms and conditions of the job, because the worker — or the worker's representative — reported or plans to report a suspected violation of federal, state or local law to a public agency or officer.

Employers are also prohibited from discriminating against a worker because the worker has been asked by a public agency or court of law to participate in an investigation, hearing or inquiry.

ENFORCEMENT: A worker who has been affected by a violation of these provisions may take legal action against the employer involved, using a private attorney or public legal service provider. Any such action must be filed within 90 days after the violation occurred.

● HUMAN TRAFFICKING NOTIFICATION ACT

TERMS: The state transportation department is required to post a human trafficking notice conspicuously at each rest stop and welcome facility in Michigan, and each local unit of government that operates such a facility or that provides bus or rail transportation services to the public must also post the notice. The notice must meet certain format standards and be posted in English, Spanish and any other language determined appropriate by the state enforcement agency. The notice must read as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 to access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

ENFORCEMENT: *Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243).* Copies of the human trafficking poster — in English and Spanish — can be downloaded from the Department's website (www.michigan.gov/lara; search for "Trafficking") or sent by mail upon request.

HEALTH AND SAFETY

● MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, Michigan has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)**

TERMS: Under the state occupational safety and health law, Michigan has adopted regulations requiring certain agricultural employers to provide their workers with drinking water, toilets, and handwashing facilities in the field.

Drinking Water — All agricultural employers in Michigan must provide sanitary drinking water to their workers in the field, at no cost to the workers. The standards for the provision of drinking water are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*).

Toilet and Handwashing Facilities — Agricultural employers with 11 or more workers on a given day must provide toilets and handwashing facilities to the workers in accordance with the federal OSHA field sanitation standard (*U.S. — Health and Safety*). Employers with fewer than 11 workers must either provide their field workers with comparable facilities themselves, or make such facilities available to them.

ENFORCEMENT: *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HOUSING

● **MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*TEMPORARY LABOR CAMPS*)**

TERMS: Under the authority of the state occupational safety and health law, Michigan has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Michigan's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **PUBLIC HEALTH CODE (*AGRICULTURAL LABOR CAMPS*)**

TERMS: Michigan's public health code regulates the licensing and operation of agricultural labor camps in the state. An agricultural labor camp is defined briefly as any building, vehicle or other structure used as living quarters for 5 or more migrant workers involved in agricultural activities, including related food processing.

Licensing — No one may operate an agricultural labor camp, or allow a labor camp to be occupied, unless a license for the housing has been issued and is posted in plain sight on the premises. An application for a license to operate an agricultural labor camp must be submitted at least 30 days before the camp is occupied.

Minimum Standards — A license may not be issued unless inspection prior to occupancy shows that the housing conforms to minimum health and safety standards. Among other factors considered in determining if a housing facility meets the standards are these:

- The water supply
- The adequacy and condition of the structures
- Living space and sleeping accommodations
- Ventilation, lighting and electricity
- Heating
- Toilet facilities
- Bathing and laundry facilities
- Cooking, refrigeration and eating facilities
- Sewage systems and trash disposal
- Safety equipment and procedures
- Restrictions on hazardous materials

ENFORCEMENT: *Environmental Stewardship Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5621)*. The Department may use the services of local health departments to conduct pre-licensing camp inspections and investigations of complaints or violations.

INSURANCE AND COMPENSATION

● MICHIGAN EMPLOYMENT SECURITY ACT

TERMS: Every farm operator or other agricultural employer who employed 10 or more workers in agricultural labor for some part of a day in 20 different weeks in the current or previous year, or paid cash agricultural wages of \$20,000 or more during any 3-month period (calendar quarter) in the current or previous year, must pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Michigan Unemployment Insurance Agency, Detroit, Michigan 48202 (616-356-0038)*. Claims by unemployed workers may be filed online, at www.michigan.gov/uia/, or by phone, at 866-500-0017 (toll-free).

● WORKER'S DISABILITY COMPENSATION ACT OF 1969

TERMS:

Full Coverage — Every farm operator or other agricultural employer with 3 or more regular workers generally must either have workers' compensation insurance or pay premiums to the state accident fund. Regular workers who are injured or disabled while working for such an employer are entitled to payment of the resulting medical costs, weekly cash compensation for loss of wages, and other benefits.

A regular worker is one who is paid hourly wages or a salary, but is not paid on a piecework basis, and who worked for the employer at least 35 hours a week for 13 or more consecutive weeks during the previous 52 weeks.

Partial Coverage — Agricultural employers who are not required to have full coverage as described above, but who employ at least one worker for 35 or more hours a week for at least 5 consecutive weeks, must provide such workers with medical and hospital coverage for injuries received on the job. These workers are not, however, entitled to weekly compensation payments or the other benefits payable to injured workers who are fully covered.

ENFORCEMENT: *Workers' Compensation Agency, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (toll-free 888-396-5041)*. A farmworker who is injured on the job, or disabled by an illness that was caused by conditions at the workplace, should notify the employer as soon as possible. Any disagreement over the employer's responsibility for medical treatment or other workers' compensation benefits should be reported to this agency.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● STATE AGRICULTURE LAWS (*EMIGRANT AGENTS*)

TERMS: With few exceptions, it is illegal for a person to recruit or hire workers in Michigan to work in farm labor outside the state unless the person first obtains an emigrant agent's license from the state. An application for a license must be accompanied by a \$75 license fee and a \$2,000 bond. A licensed agent must carry the license at all times while engaged in labor recruitment activities.

ENFORCEMENT: *Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-1820)*.

● STATE LABOR LAWS (*WORK AWAY FROM HOME LOCALITY*)

TERMS: Any person or firm that recruits a worker for employment away from the worker's home location, by promising wages or other compensation, must provide the worker with a written statement specifying the terms and conditions of the job, the wage rates to be paid, and how, when and where such wages will be paid.

ENFORCEMENT: These provisions are enforced by public prosecuting attorneys in criminal court. At the same time, a worker who has suffered damages as a result of a violation of these provisions may take legal action against the violator in civil court, using a private attorney or a public legal services program.

● WAGE PAYMENT LAWS (*EMPLOYMENT FEES*)

TERMS: A provision in the state wage payment laws makes it illegal for a crew leader, labor contractor or other agent of an employer who has authority to hire or direct the services of the employer's workers, to demand or receive a fee or other compensation from a worker as a condition of employment or continuation of employment, unless the person charging the fee is licensed as a personnel agent or agency.

ENFORCEMENT: *Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243).* This agency is responsible for enforcing the wage payment laws, including the provision requiring the licensing of certain employment agents. The agency responsible for licensing personnel agencies, and for supervising their business activities, is the *Licensing Division, Bureau of Professional Licensing, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-373-8068).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (*PESTICIDE CONTROL*)

TERMS:

Certification — In general, no one may apply pesticides for compensation or profit without being certified by the state as competent to do so safely. Certification of commercial applicators requires the applicant to complete a written examination designed to test the applicant's knowledge of pesticide hazards and safe handling and application practices. Commercial applicators also must have either (1) a bachelors degree in an area of study relevant to pest control and at least one season of service as an employee of a commercial applicator, or (2) at least 2 seasons of experience as an employee of a commercial applicator.

Similarly, farm operators intending to use any restricted pesticides on their own crops must obtain a certificate, which may be issued only after they complete either a self-directed study course and an examination, or classroom training and an examination, or an oral fact-finding interview conducted by the state enforcement agency.

Insurance — Licensed commercial applicators are required to purchase liability insurance for bodily injury and property damage arising from pesticide applications. The insurance policy generally must include minimum coverage of \$100,000 for bodily injury and \$25,000 for property damage.

Pesticide Use — Among many other requirements, (1) no pesticide may be used in a manner inconsistent with its label, (2) applications must be made in a manner that prevents off-target spray, (3) application equipment must be in sound mechanical condition, properly adjusted and equipped with shut-off valves, and (4) applications must not occur when weather conditions would result in off-target drift.

Personal Protective Equipment — Commercial applicators must follow pesticide label directions regarding use of personal protective equipment, and must follow state-prescribed requirements for the use of protective clothing, footwear and gloves.

ENFORCEMENT: *Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939).*

● NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (*AERIAL PESTICIDE APPLICATORS*)

TERMS: Before performing any pesticide application by aircraft, a private agricultural or commercial applicator must meet at least one of these requirements:

- (1) Must have been licensed as a commercial aerial applicator before December 27, 1988.
- (2) Must have at least 3 years of experience, with not fewer than 200 hours of agricultural aerial application experience under the supervision of a commercial aerial applicator.
- (3) Must successfully complete a state-recognized aerial applicator training program.

In addition, once every 3 years, an aerial applicator must either (1) participate in a state-approved application flight-efficiency clinic, using an aircraft that the applicator operates, or (2) retake the certification examinations and submit to an inspection by the enforcement agency of the applicator's aircraft, equipment and spray operations.

ENFORCEMENT: *Pesticide and Plant Pest Management Division, Michigan Department of Agriculture and Rural Development, Lansing, Michigan 48909 (517-284-5639; toll-free 800-292-3939).*

● MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

TERMS: Under the authority of the state occupational safety and health law, Michigan has adopted standards requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Michigan's hazard communication regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and likewise apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (*ANHYDROUS AMMONIA*)

TERMS: Under the state occupational safety and health law, Michigan has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Michigan's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Michigan Occupational Safety and Health Administration (MIOSHA), Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7777).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

TRANSPORTATION

● STATE AGRICULTURE LAWS (*TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS*)

TERMS: Anyone who transports 3 or more migrant agricultural workers at a time to or from their employment on a trip of at least 75 miles must comply with state rules regulating vehicles used for that purpose and imposing requirements on the drivers of such vehicles. Instead of developing its own rules, Michigan has adopted the federal safety standards governing the transportation of agricultural workers (*see entry, U.S. — Transportation*).

ENFORCEMENT: *Commercial Vehicle Enforcement Division, Michigan State Police, Dimondale, Michigan 48821 (517-284-3250).* This agency has authority to inspect vehicles used to transport migrant agricultural workers on any street or highway in Michigan.

WAGES AND HOURS

● WORKFORCE OPPORTUNITY WAGE ACT

TERMS:

Minimum Wage — Agricultural employers who (a) have 2 or more workers, and (b) used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year — for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination — are generally required to pay their workers no less than the state minimum wage. The minimum wage is \$8.90 an hour beginning January 1, 2017, and \$9.25 an hour beginning January 1, 2018.

Exceptions — The state minimum wage *does not apply* to workers in either of these categories:

- (1) Local hand harvest laborers who commute daily from their permanent residence, are paid on a piece-rate basis in traditionally piece-rate occupations, and worked in agriculture less than 13 weeks during the preceding calendar year.
- (2) Workers from outside the area who are 16 years of age or under and who are hand harvesters, paid on a piece-rate basis in traditionally piece-rate occupations, employed on the same farm as their parent, and paid the same piece rate as those over 16.

Piece Rate Workers — Piecework wage rates in the harvesting of fruits and vegetables must yield the equivalent of the state hourly minimum wage for a worker of average ability and effort.

Pay Statements — Employers required to pay the state minimum wage must furnish each worker with a statement of hours worked, wages paid and deductions for each pay period.

ENFORCEMENT: *Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243).*

Instead of filing a complaint with the Department, the law gives workers the right to sue the employer in civil court for unpaid minimum wages, using a private attorney or a public legal services program. In either case, the complaint or suit must be filed within 3 years after the violation occurred.

● WAGE PAYMENT LAW

Pay Periods —

Farm and Non-Farm Employment in General — As a rule, employers must pay their employees twice a month, with wages earned during the first half of the calendar month paid on or before the first day of the next calendar month, and wages earned during the second half of the month paid by the 15th of the month following. Regularly scheduled weekly pay periods are allowable, as long as each wage payment occurs within 14 days of the end of the week in which the wages were earned. Likewise, an employer may establish a monthly pay period, as long as wages earned during the month are paid on or before the first day of the following month.

Harvest Employment — For workers involved in the hand-harvesting of crops, all wages earned in a particular week must be paid no later than the second day after the end of the workweek.

Final Pay — Except for hand-harvest crop workers, employees who quit must receive final pay on the regularly scheduled payday for the period in which the termination occurs; workers who hand-harvest crops must be paid within one working day after they quit. An employer who fires or lays off a worker must pay final wages as soon as the amount can be determined.

Method of Payment — Wages must be paid (1) in U.S. currency, (2) by check payable without discount in U.S. currency, (3) by direct deposit to a financial institution selected by the worker, or (4) with a debit card that meets state standards. Employers may not require a worker to pay any fees or costs incurred by the employer in connection with wage payments.

Deductions from Wages — Except for deductions that are required or permitted by law, an employer may not make any deduction from wages without the worker's written consent, obtained without intimidation. The total amount of voluntary deductions may not reduce wages paid to a rate less than the state or federal minimum wage, even in the case of a worker not covered by the minimum wage laws.

Bonuses — It is illegal for an employer to withhold any portion of a worker's pay as a fringe benefit or "bonus" to be paid at the end of the employment period, unless the arrangement is agreed to in a written agreement signed by the worker without intimidation.

Employment Fees — An employer, or an agent of the employer (including a crew leader or labor contractor) having authority to hire or direct the services of the employer's workers, may not demand or receive a fee or other compensation from a worker, directly or indirectly, as a condition of employment or continued employment, unless the person charging the fee is licensed in Michigan as a personnel agency.

Payroll Records — In general, every employer must keep a record of the worker's name, address, birth date, occupation or job classification, pay rate, total hours worked in each pay period, total wages paid each pay period, deductions from pay, and fringe benefits provided. Such records must be kept for at least 3 years.

Pay Statements — Employers must generally furnish each employee, at the time of payment, with a statement showing the hours worked, the gross wages paid, the pay period for which wages are being paid, itemized deductions, and, for hand-harvest pieceworkers, the total number of units harvested.

ENFORCEMENT: *Wage and Hour Division, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243).* An employee who has not received his or her pay as required by this law may file a written complaint with the Department within 12 months after the alleged violation.

Subject to the same 12-month time limitation, a worker may file suit directly against an employer to recover unpaid wages, utilizing a private attorney or public legal service provider.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● INCOME TAX ACT OF 1967

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year — or within 30 days after the last payment of wages, in the case of a worker whose job ends before the end of the year — the employer is required to provide the worker with a written statement showing the worker's total wages and the amount of state income tax withheld during the calendar year being reported.

ENFORCEMENT: *Discovery and Tax Enforcement, Tax Compliance Bureau, Michigan Department of Treasury, Lansing, Michigan 48922 (517-636-4486).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

● CITY INCOME TAX ACT

TERMS: Agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to withhold federal income tax from the wages of their agricultural workers. In those cases, farm employers in Michigan must also withhold *city* income tax from the wages of any employee who is a resident of a city with a local-option income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to *less* than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus must withhold *city* income tax as well if the worker is a resident of a city with a local-option income tax.

On or before the last day of February following the calendar year in which such wages were paid, the employer must furnish the worker with a statement (such as a Form W-2) showing the total amount of wages paid and the amount of city income taxes withheld.

ENFORCEMENT: Except for the City of Detroit, whose income tax is administered by the Michigan Department of Treasury, the City Income Tax Act is enforced by the individual cities that have adopted the local-option income tax.

SPECIAL NOTE: Even when a farm employer is not required to deduct city income taxes from a worker's wages, the worker may have to file a tax return with the city and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Minnesota

CHILD LABOR

● CHILD LABOR STANDARDS ACT

TERMS:

Minimum Age — Children as young as 12 years of age may be employed in agricultural operations, with the permission of their parents or guardian and subject to the limitations outlined below.

Hour Restrictions —

School Days — In general, no child under the age of 16 may be employed on school days during school hours.

Time-of-Day — Regardless of occupation, children under 16 are not permitted to work before 7:00 a.m. or after 9:00 p.m.

Hazardous Occupations — No one under the age of 18 is allowed to work in any occupation declared by the state labor commissioner to be hazardous to minors. Among other prohibited activities often associated with farmwork which are closed to persons under 18 are work where chemicals are present in harmful or toxic quantities, and operating power-driven machinery.

No one under the age of 16 may be employed in the operation of a farm tractor, as a motor vehicle driver, or in an agricultural operation declared hazardous by the U.S. Secretary of Labor (*see entry, U.S. — Child Labor*).

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

The child labor laws may also be enforced by school attendance officers.

● SCHOOL ATTENDANCE LAWS

TERMS: Every child between 7 and 17 years of age must attend a qualified public or private school during the entire time the school is in session during the school year, unless the child has graduated or is excused from attendance by the local school board.

ENFORCEMENT: These provisions are enforced by district school superintendents.

CIVIL RIGHTS

● MINNESOTA HUMAN RIGHTS ACT

TERMS: With limited exceptions, it is illegal for an employer, because of race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, age, or membership or activity in a local human rights commission, to refuse to hire a job applicant, to maintain an employment system which excludes a person seeking employment, to fire a worker, or to discriminate against a person with respect to wages or the terms or conditions of employment.

Before a person is hired, it is generally unlawful for an employer to do either of the following:

- (1) To require the person to furnish information related to race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age.
- (2) To print an employment-related notice or advertisement that indicates a preference or discrimination based on race, color, creed, religion, national origin, sex, marital status, public assistance status, familial status, disability, sexual orientation, or age.

Similar acts by employment agencies and labor organizations are also prohibited.

ENFORCEMENT: *Minnesota Department of Human Rights, St. Paul, Minnesota 55155 (651-539-1100; toll-free 800-657-3704).* Anyone affected by an act of illegal employment discrimination may file a complaint with the Department within one year after the act occurred.

As an alternative to filing a complaint with the state agency, the law gives workers the right to sue in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● EQUAL PAY FOR EQUAL WORK LAW

TERMS: In general, it is illegal for an employer to pay wages to workers at a rate less than the rate at which the employer pays workers of the opposite sex for equal work, on jobs requiring equal skill, effort and responsibility and performed under similar working conditions.

ENFORCEMENT: This law is enforced by public prosecuting attorneys in criminal court. However, a worker who has been paid discriminatory wages based on sex may file suit in civil court to collect any unpaid wages and damages, using a private attorney or a public legal services program.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (*AGE DISCRIMINATION*)

TERMS: It is generally illegal for any employer in Minnesota to refuse to hire a person who is under 70 years of age, or to fire or demote a person under 70, because of the person's age.

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● STATE LABOR LAWS (*DISCLOSURE OF INFORMATION BY EMPLOYEES*)

TERMS: Public and private employers in Minnesota are prohibited from firing, disciplining, threatening or otherwise discriminating against an employee because the employee:

- (1) In good faith reports a suspected violation of federal or state law to the employer, to a governmental agency, or to a law enforcement official.
- (2) Is requested by a public body or office to participate in an investigation, hearing or inquiry.
- (3) Refuses the employer's order to perform an action that the employee believes violates federal or state law, and informs the employer that the order is being refused for that reason.

ENFORCEMENT: An employee who experiences retaliation in violation of this law may take legal action against the employer involved, using a private attorney or public legal service provider.

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor department has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (*WORKING CONDITIONS FOR CORN DETASSELERS*)

TERMS: Every employer of corn detassellers in the state must provide the workers with an accessible supply of clean water in the field, along with cups or other sanitary drinking facilities.

ENFORCEMENT: Corn detassellers denied the benefit of drinking water at the job site may wish to consult with a private attorney or public legal service provider about the possibility of legal action against the employer.

HOUSING

● STATE LABOR LAWS (*MIGRANT LABOR RECRUITMENT*)

TERMS: Every processor of fruits and vegetables that recruits and employs more than 30 migrant workers per day for more than 7 days in any calendar year must, at the time of recruitment, provide each worker with a bilingual statement indicating whether or not housing will be provided. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

Any such processor who recruits, employs and provides housing facilities to migrant workers may require a worker to move out of the housing, but only after the worker's final wages have been paid.

ENFORCEMENT: Using a private attorney or a public legal services program, a migrant farmworker affected by a violation of these provisions may file a lawsuit against the processor involved for damages and other corrective action.

INSURANCE AND COMPENSATION

● MINNESOTA UNEMPLOYMENT INSURANCE LAW

TERMS: Farm operators and other agricultural employers that employed 4 or more workers in agricultural labor for some part of a day in each of 20 different weeks in the current or preceding year, or paid agricultural wages amounting to \$20,000 or more during any 3-month period (calendar quarter) in the current or preceding year, are required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Program, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-296-3644; toll-free 877-898-9090).* Workers who are temporarily without employment and have worked for employers who have paid unemployment contributions on their behalf may file a claim for benefits online, at www1.uimn.org/ui_applicant/applicant/login.do.

● WORKERS' COMPENSATION LAW

TERMS: Farm operators and other agricultural employers who paid at least \$8,000 in cash wages for farm labor in the previous year are required to have workers' compensation insurance, or authorization from the state to operate as a self-insurer.

Farmworkers who work for such an employer and who suffer a job-related injury are generally entitled to medical treatment at the employer's expense and may be eligible for weekly cash payments to compensate for lost wages if the injury results in disability. In the event of a worker's death due to injury on the job, benefits are normally payable to the worker's dependents.

ENFORCEMENT: *Workers' Compensation Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5005; toll-free 800-342-5354).* Workers' compensation benefits for a job-related injury or death may not be paid until the employer is notified in writing by the worker or is otherwise made aware of the injury or death. In general, no claim for compensation is valid unless filed within 6 years after the date of the accident on which the claim is based.

● STATE LABOR LAWS (*HEALTH INSURANCE FOR MIGRANT LABOR*)

TERMS:

Required Insurance — Anyone who employs 5 or more recruited migrant workers in Minnesota must provide health care insurance covering the workers during the period of employment. Coverage applies only to those workers who meet all four of these conditions:

- (1) Are not residents of Minnesota.
- (2) Are employed or were recruited for employment in the processing of agricultural products and not as field workers.
- (3) Are offered some type of housing or transportation benefits by the employer.
- (4) Do not have comparable health care insurance.

Exception — An employer is not required to purchase insurance for any worker who performs only on-farm services, or who processes agricultural products on or off the farm in a plant where more than half the crops being processed are grown by that same employer.

ENFORCEMENT: *Job Service Division, Minnesota Department of Employment and Economic Development, St. Paul, Minnesota 55101 (651-259-7114; toll-free 800-657-3858).* A migrant farmworker who is recruited for agricultural processing work and who has reason to believe he or she is not being provided the health insurance coverage required by these provisions should contact the Department, at any local WorkForce Center.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS: Anyone who charges a fee for providing workers with information or services enabling them to obtain employment, or for providing employers with information enabling them to obtain workers, is required to have a written agreement with each worker or employer to whom he or she provides services. The contract must be dated and show the name of the agent, the charges or fees to be paid by the worker or employer for the agent's services, and other prescribed information.

Among other responsibilities, the agent must give each worker an itemized receipt for each fee or charge paid by the worker, and must keep a detailed record identifying each employer to whom the worker was referred, the occupation involved, the expected duration of the job, the wage to be paid, and related information.

It is illegal for an employment agent to knowingly print or publish false information regarding employment.

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

● STATE LABOR LAWS (*MIGRANT LABOR RECRUITMENT*)

TERMS: Every processor of fruits and vegetables in Minnesota that employs, either directly or indirectly through a recruiter, more than 30 migrant workers per day, for more than 7 days in a calendar year, must comply with the disclosure provisions summarized in the next paragraph.

A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

Employment Statements — At the time of recruitment, the employer is required to provide each such worker with a written employment statement plainly specifying, in English and Spanish, all of the following:

- (1) The date on which and the place at which the statement was provided to the worker.
- (2) The names and permanent addresses of the worker, employer and recruiter.
- (3) The expected date of the worker's arrival at the job site, the anticipated date the job will begin, the approximate hours of employment, and the minimum period of employment.
- (4) The crops and crop operations in which the worker will be employed.
- (5) The wage rates to be paid.
- (6) The terms of payment.
- (7) Any wage deductions to be made.
- (8) Whether or not housing will be provided.

The required employment statement is deemed an enforceable contract between the worker and the employer.

ENFORCEMENT: Using a private attorney or a public legal services program, a migrant farmworker affected by a violation of these provisions may file a lawsuit against the processor involved for damages and other corrective action.

● STATE LABOR LAWS (*FALSE STATEMENTS IN RECRUITMENT*)

TERMS: It is illegal for a person or firm doing business in Minnesota to recruit or persuade a worker to relocate from some other place in order to work in Minnesota, either by providing false or misleading information concerning the type of work, wages, or sanitary conditions, or by failing to advise the worker of a strike or similar labor dispute at the place of proposed employment.

ENFORCEMENT: Using a private attorney or public legal services program, a worker who is recruited or persuaded to change his or her place of employment, as described above, has a right to sue for damages suffered as a consequence of any false or misleading information.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL LAWS

TERMS:

Licensing and Certification — No one may use or supervise the use of any pesticide for hire without a commercial applicator's license issued by the state. Issuance of a commercial license generally requires, among other things, that the applicant pass an examination demonstrating the ability to use pesticides safely and effectively. Likewise, farm operators who use restricted pesticides on their own crops must be certified as private applicators, which generally requires training to assure their ability to use restricted pesticides properly.

Financial Responsibility — Before a commercial applicator's license is issued or renewed, the applicant must post a bond or purchase liability insurance amounting to at least \$50,000, covering damages that may result from the applicant's pesticide operations.

Prohibited Use of Pesticides — No one may use, store, handle or dispose of a pesticide, pesticide container, or pesticide application equipment in a manner contrary to instructions on the pesticide label, or in any way that could endanger humans or animals or damage crops or the environment. It is illegal to damage nearby non-targeted property as a result of a pesticide application, or to directly spray pesticides on a human or expose a worker in a nearby open field.

Safeguards at Application Sites — A person may not allow a pesticide or unrinsed pesticide container to be stored or to remain at any location without adequate safeguards to prevent the movement or escape of the material from the location.

Posting — If a pesticide label prescribes a specific period of hours or days before it is safe for people to re-enter an area following treatment with the product, the person applying the pesticide must post warning signs in the field or other areas where the product has been applied, in accordance with label instructions and state regulations.

ENFORCEMENT: *Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333).*

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

TERMS: Every farm operator or other agricultural establishment that (1) employs more than 10 workers, or (2) maintains a temporary labor camp and employs any of its residents, must provide the workers with certain training and information concerning hazardous materials in the workplace.

Training — Employers covered by this law must provide the workers with a training program on the hazardous substances to which they are exposed on the job. Normally, training must be provided before the workers are first assigned to a job where they may be exposed, and at least once a year after that. In most cases, training must be presented orally, in a language understood by each participant. The content of the training program depends on the nature and extent of exposure, but oral training generally must cover such topics as the identity of the hazardous substances involved, the known symptoms and effects of exposure, appropriate emergency treatment, and proper conditions for safe use and exposure.

Any worker who is exposed to hazards on the job, but who is not a handler of hazardous substances and is not employed for more than 5 days, is entitled at least to comparable *written* information, in a language understood by the worker.

Access to Information — Farmworkers who work for an employer covered by this law have a right to detailed written information on the hazardous substances encountered at the place of employment.

All other agricultural workers, and any association or union representing them, are entitled to receive from their employer, upon request and within a reasonable period of time, the labeling information from the container of any substance or chemical to which they may be exposed.

ENFORCEMENT: *Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1973 (*ANHYDROUS AMMONIA*)

TERMS: Under Minnesota's occupational safety and health law, the state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Minnesota's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Occupational Safety and Health Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-282-5050; toll-free 877-470-6742).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● FERTILIZER, SOIL AMENDMENT, AND PLANT AMENDMENT LAW

TERMS: Minnesota has adopted rules for the storage, transportation and application of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer.

Safety Training — Workers required to handle, transport or otherwise work with ammonia must receive federally prescribed safety training.

Containers — Tanks attached to farm wagons and other implements used to transport ammonia must be securely mounted, and all gauges, connections, valves, guards and other parts must comply with qualitative and quantitative standards specified in the regulations.

Warning Signs — On each side and at each end of an on-farm ammonia container, the words "Anhydrous Ammonia" and "Inhalation Hazard" must appear, in letters at least 2 inches high.

Safety Equipment — An ammonia tank must be equipped with at least 5 gallons of clean water, in a vessel designed to provide ready access to the water for flushing any area of the body contacted by ammonia.

ENFORCEMENT: *Regulation, Inspection and Enforcement Division, Minnesota Department of Agriculture, St. Paul, Minnesota 55155 (651-201-6333).*

TRANSPORTATION

● STATE LABOR LAWS (*TRANSPORTATION FOR CORN DETASSELERS*)

TERMS: Whenever an employer fires or lays off a worker employed to detassel corn, or such a worker is injured or becomes ill on the job, the employer must provide the worker with transportation from the workplace to the location where the worker was picked up that day. Furthermore, the employer is required to pay the worker, at the individual's regular wage rate, for the time period between the moment the worker was dismissed or became injured or ill, and the time of arrival back at the pick-up point.

ENFORCEMENT: A corn detasseler who has not been paid for return travel time after termination, injury or illness should see a lawyer about possible legal action against the employer to collect the unpaid wages.

WAGES AND HOURS

● MINNESOTA FAIR LABOR STANDARDS ACT

TERMS:

Minimum Wage —

Large Employers — Farm operators and other agricultural establishments that have annual sales of \$500,000 or more must pay their workers age 20 and over no less than \$9.50 for every hour of work. For the first 90 consecutive days of employment, workers under the age of 20 may be paid no less than \$7.75 an hour.

Small Employers — Farm employers with annual sales of less than \$500,000 must pay all their workers no less than \$7.75 for every hour of work.

Beginning in 2017, these rates are expected to be increased annually, to reflect changes in the cost of living.

Exceptions — The state minimum wage *does not apply* to workers in the following categories:

- (1) Farmworkers who receive a salary (that is, the worker is not paid by the hour) and work on a farming unit or operation where no more than 2 such workers are employed.
- (2) Farmworkers who receive a weekly salary (not hourly wages) greater than a certain prescribed minimum — currently \$698 or more on a large farm, \$569 or more on a small farm.
- (3) Workers under 18 years of age who are employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) Workers under 18 who are employed to detassel corn.

Deductions — No direct or indirect deductions may be made for any of the following items if the deduction would lower the worker's pay to below the applicable minimum wage:

- (1) Special clothing required by the employer and generally not appropriate for use except on that job.
- (2) Purchased or rented equipment used on the job.
- (3) Consumable supplies required in the course of work.
- (4) Job-related transportation, other than travel between the worker's residence and the workplace.

Recordkeeping — Every employer subject to the Act must keep a record of (1) the name, address and occupation of each worker, (2) the rate of pay and amount paid each pay period to each worker, and (3) the hours worked each day and each workweek by the worker.

Posting — Every employer subject to the Minnesota Fair Labor Standards Act must post a summary of the law and the associated regulations in a conspicuous location easily accessible to the workers.

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

As an alternative to filing a claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid minimum wages, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● MINNESOTA FAIR LABOR STANDARDS ACT (HOURS AND OVERTIME)

TERMS:

Overtime Pay — With the exceptions listed below, farmworkers in Minnesota must be paid at least $1\frac{1}{2}$ times their regular rate of pay for every hour of employment after 48 hours in any workweek.

Exceptions — The overtime requirement *does not apply* to:

- (1) A farmworker who receives a salary (that is, the worker is not paid by the hour) and works on a farming unit or operation where no more than 2 such workers are employed.
- (2) A farmworker who receives a weekly salary (not hourly wages) greater than a certain prescribed minimum — currently \$698 or more on a large farm, \$569 or more on a small farm.
- (3) A worker under 18 who is employed to perform hand field work when one or both of the worker's parents are also hand field workers.
- (4) A sugarbeet hand laborer who is employed on a piecework basis and earns the equivalent of at least 40 cents an hour above the required state minimum wage.

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid overtime pay, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE LABOR LAWS (*MIGRANT LABOR GUARANTEED MINIMUM HOURS*)

TERMS:

Guaranteed Hours — Every processor of fruits and vegetables that recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must guarantee to each such worker a minimum of 70 hours' pay for work in any 2 consecutive weeks. If a worker's pay for the hours actually worked amounts to less than the minimum guarantee, the employer must pay the worker the difference within 3 days after the regular payday for the pay period involved. Payment for the guaranteed hours must be at the hourly wage rate, if any, specified in the employment statement required at the time of recruitment (*see entry, Minnesota — Labor Contractors AND Worker Recruitment*), or at the federal minimum wage, whichever is higher.

Period of Guarantee — The pay guarantee applies for the minimum period of work specified in the employment statement, beginning on the date on which the work is supposed to begin.

Reduction of Guaranteed Hours — When weather or some other uncontrollable force causes loss of employment for a period of 7 or more consecutive days during any two-week period after the work begins, the guarantee will be reduced by 5 hours a day for each such day, provided that each worker is paid the sum of \$5 for each such day.

Termination of Employment — Whenever a worker quits or is fired for good reason before completing the job for which he or she was hired, the worker is not entitled to any further guarantee of hours from that employer. If termination occurs before the end of the two-week pay period, the worker is not entitled to a guarantee for that period.

Refusal or Inability to Work — If on any day for which work is offered a worker refuses to work, or is unable to work due to illness or disability, the employer may reduce the pay period's guarantee by the number of hours of work actually offered by the employer that day.

ENFORCEMENT: Using a private attorney or a public legal services program, a migrant farmworker affected by a violation of these provisions may file a lawsuit against the processor involved for damages and other corrective action.

● STATE LABOR LAWS (*WAGE PAYMENTS*)

TERMS:

Pay Periods and Paydays — In general, every worker performing labor or services which require changes in residence must be paid no less often than every 15 days. Otherwise, employers must pay at least once every 31 days, on a regular payday designated in advance by the employer.

Wage Deductions for Loss or Damage — As a rule, no employer may make any deduction for damage to property or to collect on a loan, unless the worker voluntarily and in writing authorizes the employer to do so and the authorization is given after the damage occurred or the loan was made.

Pay Statements — At the end of each pay period, an employer must give each worker a written earnings statement that includes the worker's name, the hourly pay rate (if wages are paid by the hour), the total number of hours worked (unless the state minimum wage does not apply), the gross pay earned, a list of any deductions made from the worker's gross earnings, the worker's net pay, and the ending date of the pay period.

Final Pay — When a worker performing labor which requires the worker to change residences leaves the job or is fired or laid off, the employer must pay the worker's final wages within 24 hours; if not, the employer is responsible for the worker's living expenses while the worker waits for his or her earnings. In the case of migrant workers, wages earned but unpaid at the time the worker quits are due within 5 days thereafter. For all other workers, earnings that are unpaid at the time the employee quits are payable no later than the next regularly scheduled payday.

ENFORCEMENT: *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).*

As an alternative to filing a wage claim or complaint with the state agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● STATE LABOR LAWS (*MIGRANT LABOR WAGE PAYMENTS*)

TERMS: Every processor of fruits and vegetables that directly or indirectly recruits and employs more than 30 migrant workers per day for more than 7 days in a calendar year must follow the special wage payment provisions outlined below. A migrant worker is defined as an individual at least 17 years of age who travels more than 100 miles to Minnesota from some other state to perform seasonal agricultural labor in Minnesota.

Paydays — Employers covered by this law must pay wages due to each migrant worker at least once every 2 weeks. Final wages are due within 3 days of termination.

Statement of Deductions — The employer must provide a written statement with every payment of wages clearly itemizing each deduction from the worker's wages.

Recordkeeping — With respect to each migrant worker recruited, the employer must maintain complete and accurate payroll records for each pay period, including the worker's name, daily hours worked, rate of pay, and the amount of wages paid. Records must be preserved for a period of at least 3 years.

ENFORCEMENT: Using a private attorney or a public legal services program, a migrant farmworker affected by a violation of these provisions may file a lawsuit against the processor involved for damages and other corrective action.

● INCOME AND FRANCHISE TAX LAWS

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

Exception — State income tax withholding *does not apply* to wages paid to a worker who is not a resident of Minnesota if the amount the employer expects to pay the worker is less than the minimum income requirement for a non-resident to file a Minnesota income tax return (\$10,700 in 2017).

On or before January 31 of the following year — or, if the job ended before the end of the year, within 30 days after receiving a written request from the worker — the employer must provide the worker with a written statement showing (1) the employer's name, (2) the worker's name and Social Security number, (3) the total amount of wages paid, and (4) the total amount deducted and withheld as tax.

ENFORCEMENT: *Income Tax and Withholding Division, Minnesota Department of Revenue, St. Paul, Minnesota 55146 (651-282-9999; toll-free 800-657-3594).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Mississippi

CHILD LABOR

● MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: The parent or guardian of any child who has reached the age of 6 on or before September 1 of any year, but is under the age of 17 by that date, must enroll the child in a public school or an approved non-public school for the ensuing school year, and assure that the child attends.

ENFORCEMENT: *Office of Compulsory School Attendance Enforcement, Mississippi Department of Education, Jackson, Mississippi 39205 (601-359-3178).* The Compulsory School Attendance Law is enforced by school attendance officers employed and supervised by the Department.

INSURANCE AND COMPENSATION

● MISSISSIPPI EMPLOYMENT SECURITY LAW

TERMS: Every agricultural employer who paid cash agricultural wages of \$20,000 or more during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some part of a day in 20 different weeks this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Division, Mississippi Department of Employment Security, Jackson, Mississippi 39215 (601-321-6000; toll-free 888-844-3577).* Applications for unemployment compensation may be filed online, at <https://accessms.mdes.ms.gov/accessms/enter.do>.

SPECIAL NOTE: Workers who have earnings from employment in certain designated seasonal industries are subject to special limitations on the periods during which unemployment benefits are available. The only agriculturally related industry currently classified as seasonal is cotton ginning.

PESTICIDES AND AGRICULTURAL CHEMICALS

● MISSISSIPPI PESTICIDE APPLICATION LAW OF 1975

TERMS: Except for aerial applicators, whose activities are regulated under another law, it is illegal for anyone to use restricted pesticides in Mississippi without having been certified or licensed under the Pesticide Application Law. As a condition for certification, commercial and private applicators must pass examinations demonstrating their ability to apply such products safely and effectively.

Among other practices, it is unlawful for any pesticide applicator to operate in a faulty or negligent manner, to operate faulty or unsafe equipment in such a manner as to cause damage to persons or property, or to refuse or neglect to keep required records or make required reports.

ENFORCEMENT: *Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390).*

● AGRICULTURAL AVIATION LICENSING LAW OF 2009

TERMS: The Agricultural Aviation Licensing Law regulates the licensing of individuals and businesses engaged in the aerial application of pesticides, poisons, seeds, fertilizer and chemicals on agricultural lands in Mississippi.

Licensing and Registration — It is unlawful for anyone to apply any pesticide, fertilizer or seed by aircraft unless the person has an applicator's license or pilot's license issued by the state agriculture department for that purpose. Likewise, all aircraft used for aerial application of agricultural substances must be registered with the department.

Financial Responsibility — Every individual or company seeking a license for aerial agricultural operations must obtain a surety bond or a liability insurance policy, covering damages resulting from aerial applications. Liability coverage must be in an amount not less than \$100,000 for personal injury, \$300,000 for multiple injuries, and \$100,000 for property damage.

Recordkeeping — Aerial applicators are required to keep a record of each pesticide application. The record must include the date of the application, the product used, the rate of application, the crop or site treated, the target pest involved, the number of acres treated, the location of the site, the identity of the property owner, the wind velocity and other conditions at the time of application, the name of the pilot, the registration number of the aircraft used, and a write-up on any accidents or other unusual occurrences during the application.

Duties of the Chief Pilot — The person designated as the chief pilot of an agricultural aircraft operation is responsible for supervising the operation, for regularly checking records to assure compliance with the law, and for making sure each pilot is aware of and complies with his or her responsibilities under state and federal regulations.

Prohibited Activities — The enforcement agency may suspend an aerial applicator's or pilot's right to do business in Mississippi if the agency finds that the applicator or pilot has, among other violations, applied pesticides in a faulty or negligent manner, failed or refused to keep required records or make required reports, performed work that the applicator or pilot is not licensed to perform, or been convicted of a violation of the federal pesticide laws. It is illegal for anyone in the state to use or apply a pesticide product in a manner contrary to its labeling.

Application Restrictions — The regulations adopted under the Agricultural Aviation Licensing Law include numerous restrictions on the conditions under which aerial pesticide applications may be conducted, and require applicators and pilots to have equipment on hand for measuring and recording the exact location of treatment sites, wind speed and direction, and air temperatures. Spray equipment is subject to very specific standards for prevention of drift.

ENFORCEMENT: *Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce, Mississippi State, Mississippi 39762 (662-325-3390).*

WAGES AND HOURS

● WAGE PAYMENT LAWS

TERMS: In general, no employer may make any deduction from a worker's wages to pay for goods or services provided to the worker by a merchant or other third party, unless (1) the employer has received a copy of the sales contract or collection agreement between the worker and the merchant, and (2) the employer agrees to the wage deduction arrangement in writing before the goods or services are provided.

ENFORCEMENT: These provisions may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

● DEBTOR-CREDITOR LAWS (*CROP LIENS*)

TERMS: Every farmworker who cultivates or harvests any crop in Mississippi is entitled to all or a part of the value of the crop when it is sold, in the event the farm owner or operator fails to pay the worker's wages in full. The worker may enforce this right, or lien, by making a written statement to a clerk or justice in the county where the farm or crop is located. On receipt of a valid statement, the county official is required to issue a document authorizing the crop to be held and ordering the farm owner or operator to appear in court to answer the complaint.

ENFORCEMENT: As noted above, crop liens are enforceable only through the civil courts. A worker who wishes to make such a claim should consult with a private attorney or a public legal services program.

● MISSISSIPPI INCOME TAX WITHHOLDING LAW OF 1968

TERMS: Unlike earnings in most other industries, wages paid for agricultural services in Mississippi are not subject to withholding of state income tax.

ENFORCEMENT: *Withholding Income Division, Mississippi Department of Revenue, Jackson, Mississippi 39215 (601-923-7088).*

SPECIAL NOTE: Even though farm employers are not required to withhold state income taxes from their workers' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Missouri

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Minimum Age — With few exceptions, no child under 14 years of age in Missouri may be employed or permitted to work at any time.

Hours of Work — Children under the age of 16 may be employed only during non-school hours. A child under 16 may work for no more than 3 hours on a school day, no more than 8 hours on a non-school day, and no more than 6 days or 40 hours in any week. The employment of minors under 16 is forbidden before 7:00 a.m. and after 7:00 p.m. (or after 9:00 p.m. from June 1 through Labor Day).

Hazardous Occupations — No child under 16 may be employed in an occupation regarded as hazardous, including, among others, work in connection with power-driven machinery and in the operation of a truck or motor vehicle.

Work Certificates — With few exceptions, employers are prohibited from employing anyone under 16 years of age during the regular school year, unless the child has received a work certificate from the local school district.

ENFORCEMENT: *Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403).*

● COMPULSORY ATTENDANCE LAW

TERMS: Every parent, guardian or other person having custody or control of a child between the ages of 7 and 17 is responsible for assuring the child's regular attendance at a public, private, parochial, parish or home school, for the entire length of the school term.

ENFORCEMENT: The local school districts are responsible for enforcing this law, through school attendance officers or similar officials appointed for that purpose.

CIVIL RIGHTS

● HUMAN RIGHTS LAW

TERMS: With only limited exceptions, it is illegal for a farm operator or any other employer who has 6 or more employees to commit any of the following discriminatory acts, among others:

- (1) To refuse to hire a job applicant, to fire a worker, or to discriminate against a worker with respect to wages or the terms or privileges of employment, because of the person's race, color, religion, national origin, sex, ancestry, disability or age (where the person is 40 years old or older, but under 70).
- (2) To segregate or classify workers or job applicants, on any of these same grounds, in a way which would tend to limit an individual's job opportunities or otherwise negatively affect the individual's status as an employee.
- (3) To publish or circulate any advertisement or statement, or use any form of job application, which expresses any limitation, preference or specification related to race, color, religion, national origin, sex, ancestry, disability or age.

Similar acts committed by employment agencies and labor organizations are also prohibited.

ENFORCEMENT: *Missouri Commission on Human Rights, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3325; toll-free 877-781-4236).* Complaints charging illegal employment discrimination may be filed with the Commission at any time within 180 days after the discrimination occurred.

If the Commission has not taken final action on a worker's complaint within 180 days after it is filed, the worker may request written notice from the Commission of the right to sue the employer or other violator involved directly. Within 90 days after notice, and no later than 2 years after the discrimination occurred, the worker may file suit, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● EQUAL PAY LAW

TERMS: No employer may pay any female employee at a wage rate less than the rate paid to male employees for the same type of work. Pay variations between males and females are allowed, however, when the difference is based on length of time on the job, ability, skill, hours of work, or similar factors other than sex.

ENFORCEMENT: *Labor and Industrial Relations Commission, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-2461).* Any female who believes the wages paid to her are less than the wages to which she is entitled under the equal pay law may file a complaint with the Commission, which is obligated to mediate the dispute.

As an alternative, the worker may take legal action against the employer in court, using a private attorney or a public legal services program. Such a lawsuit may not be filed more than 6 months after the date of the violation.

HEALTH AND SAFETY

● EMPLOYEE HEALTH AND SAFETY LAWS (*PREVENTION OF OCCUPATIONAL DISEASES*)

TERMS: An employer whose place of business exposes a worker to illness or disease on the job is required to provide effective means of preventing such illness or disease.

Likewise, employers who use labor in any activity in which workers use or come into contact with poisonous chemicals in harmful quantities, or in a harmful way, must provide (1) cool, sanitary drinking water and drinking facilities, without cost and within a reasonable distance, and (2) adequate and sanitary washing facilities.

ENFORCEMENT: *Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403).*

INSURANCE AND COMPENSATION

● MISSOURI EMPLOYMENT SECURITY LAW

TERMS: Farm operators and other agricultural operations that paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some part of a day in each of 20 different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. The amount of benefits depends on the worker's recent earnings, but unemployment payments are currently limited to \$320 a week.

ENFORCEMENT: *Division of Employment Security, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65104 (573-751-3215).* A worker who has earnings from insured employment and is without work may file an application for benefits online, at www.ui.labor.mo.gov/som/IC_0010.jsp.

PESTICIDES AND AGRICULTURAL CHEMICALS

● MISSOURI PESTICIDE USE ACT

TERMS:

Commercial Applicators — Anyone who charges a fee to apply or supervise the use of any pesticide must be licensed by the state as a certified commercial applicator. Among other requirements, applicants for such a license must pass examinations demonstrating competence to apply pesticides safely and effectively, and they must post a bond or obtain liability insurance amounting to at least \$50,000, protecting persons who may suffer damages as a result of the applicator's operations.

Private Applicators — Farm operators who use or supervise the use of restricted pesticides for agricultural purposes on their own land must be licensed and certified as private applicators, which requires that they attend a state-administered or online course of instruction covering the use, handling, storage and application of restricted pesticides.

Non-Commercial Applicators — Other individuals who are not classified as private applicators but use restricted products without pay or profit on their own or their employer's land, are required to be licensed as certified non-commercial applicators. A license of this type requires, in part, completion of examinations to demonstrate competence in the proper use of pesticides and knowledge of related regulations.

Prohibited Acts — Among many other violations specified in this law, it is illegal for anyone to transport, store or dispose of any pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects.

ENFORCEMENT: *Bureau of Pesticide Control, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-5504).* Anyone who is injured or who suffers damage because of someone else's use of a pesticide may request an investigation by the Department, provided the agency is notified within 30 days after the injury or damage occurred.

● SEED, FERTILIZER, AND FEED LAWS (*ANHYDROUS AMMONIA STANDARDS*)

TERMS: Regulations adopted under the state agriculture laws require that tanks and related equipment such as valves, hoses and gauges used in the storage, transportation and use of anhydrous ammonia (a common agricultural fertilizer) must be constructed according to detailed safety specifications. The regulations also require that workers handling ammonia be trained by their supervisors in safe operating practices and appropriate emergency procedures.

More specifically, tanks attached to farm wagons, tractors or trailers for the purpose of transporting anhydrous ammonia to and from the fields, or applying ammonia to crops, must be securely mounted, equipped with certain required fittings and gauges, and properly labeled with prescribed identifying information. Storage and application tanks used in the field must be accompanied by one pair of goggles or a face shield, a pair of protective gloves, and a container of not less than 5 gallons of water for emergency purposes.

ENFORCEMENT: *Division of Weights and Measures, Missouri Department of Agriculture, Jefferson City, Missouri 65102 (573-751-7062).*

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage — Agricultural workers are entitled to the state minimum wage only if they are employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during a calendar quarter in the current or preceding calendar year. That volume of labor is equivalent to, for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination, occurring from January through March, April through June, July through September, or October through December.

The current minimum wage rate in Missouri is \$7.70 an hour.

Exceptions — In addition to excluding farmworkers on smaller farms that do not meet the 500 worker-day threshold, the state minimum wage law generally *does not apply* to workers in either of these two categories:

- (1) Workers who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) commute daily from their permanent residence to the farm, and (d) were employed in agriculture less than 13 weeks during the preceding calendar year.
- (2) Workers 16 years of age or younger who (a) are employed as hand harvest laborers, (b) are paid on a piecework basis in a traditionally piecework-paid operation in the local area, (c) are employed on the same farm as their parents, and (d) are paid the same piece rate as workers over the age of 16 are paid on the same farm.

ENFORCEMENT: *Division of Labor Standards, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102 (573-751-3403).* A worker who believes he or she is entitled to the state minimum wage and who has not been paid accordingly may file a claim with the Department.

A worker may also take legal action against an employer in court to collect unpaid minimum wages, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE AND HOUR LAWS (*WAGE PAYMENT*)

TERMS:

Pay Periods and Paydays — Incorporated farming operations and other corporate employers in Missouri must generally pay the wages of their workers no less often than semi-monthly, within 16 days of the close of each payroll period.

Pay Statements — At least once a month, corporate employers must furnish each worker with a written statement showing the total amount of deductions for the period covered.

Notice of Wage Reduction — Any corporation that intends to reduce the wages of its workers, or of any individual worker, must provide the affected worker or workers 30 days' notice of the planned change in pay.

Final Wages — Whenever an employer, whether a corporate entity or otherwise, lays off or fires a worker with or without cause, all wages earned and still unpaid are due on the worker's last day.

ENFORCEMENT: A worker may enforce these protections only through action in civil court, using a private attorney or a public legal services program.

● INCOME TAX LAW (*WITHHOLDING OF TAX*)

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31 — or within 30 days after the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld, if any.

ENFORCEMENT: *Business Tax Bureau, Taxation Division, Missouri Department of Revenue, Jefferson City, Missouri 65101 (573-751-3505).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Montana

CHILD LABOR

● CHILD LABOR STANDARDS ACT

TERMS:

Minimum Age — With written consent from their parent or guardian and the parent or guardian is working on the same farm or ranch, children under the age of 14 may be employed in non-hazardous agricultural jobs.

Working Hours — Unless they have written consent from their parent or guardian, children under the age of 16 are prohibited from working:

- (1) During school hours.
- (2) Before 7:00 a.m. or after 7:00 p.m. (after 9:00 p.m. from June 1 through Labor Day).
- (3) More than 3 hours on a school day or 18 hours in a school week.
- (4) More than 8 hours on a non-school day or 40 hours in a non-school week.

Hazardous Agricultural Occupations — Among other ag-related jobs declared off-limits, with few exceptions children under the age of 16 are prohibited from:

- (1) Working inside certain silos and fruit or grain storage structures.
- (2) Handling or using poisonous agricultural chemicals.
- (3) Transporting, transferring or applying anhydrous ammonia.

ENFORCEMENT: *Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600).*

● COMPULSORY ENROLLMENT AND ATTENDANCE LAW

TERMS: Any parent or other person responsible for the care of a child who is 7 years of age or older, and who has not reached the age of 16 and has not completed the 8th grade, must enroll the child in a public school (or an allowed alternative) and see that the child attends.

ENFORCEMENT: These provisions are enforced by attendance officers employed by the local school districts.

CIVIL RIGHTS

● HUMAN RIGHTS LAWS (*ILLEGAL DISCRIMINATION*)

TERMS: It is unlawful for an employer in Montana to refuse to hire an individual, or to discriminate against an individual with respect to pay, benefits or other conditions of employment, because of the individual's race, creed, religion, color, or national origin.

Likewise, an employer may not discriminate on the basis of age, physical or mental disability, marital status or sex when there is no valid job-related reason for making such a distinction.

The publication or circulation of an employment advertisement or notice, or the use of a job application form, which expresses a preference or limitation with respect to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin is also prohibited, unless such a preference or limitation is based on a valid job qualification.

Employment agencies and labor organizations are also forbidden from engaging in comparable discriminatory acts.

ENFORCEMENT: *Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807).* In general, a complaint to the Department may be processed only if it is submitted within 180 days after the violation occurred.

If the Department dismisses the complaint or has been unable to resolve it within 180 days of filing, the Department may provide the worker with a written authorization to take the matter to state district court, using a private attorney or public legal services program. Court action must commence no later than 90 days after the worker receives authorization to sue.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions.

● EQUAL PAY LAW

TERMS: It is unlawful for anyone in Montana to employ women in any occupation for a wage or salary less than the wage or salary paid to men for essentially the same amount or type of work, at the same place of employment.

ENFORCEMENT: *Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807).* A woman who has not received full wages as a result of sex discrimination on the job may file a claim with the Department.

● CONSTITUTION OF THE STATE OF MONTANA (*INDIVIDUAL DIGNITY*)

TERMS: The state constitution prohibits anyone in the state from discriminating against an individual because of the individual's culture, political ideas, social origin, or social condition. This provision protects farmworkers in Montana, and applies to their employers, to the same extent as in non-agricultural, non-employment settings.

ENFORCEMENT: Workers who believe they have been discriminated against because of their culture, political ideas, or social origin or condition, may wish to consult with a private attorney or public legal services program about the possibility of legal action for any damages suffered as a result.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT INSURANCE LAW

TERMS: A farm operator or other agricultural operation that (1) pays cash wages of \$20,000 or more for agricultural labor in any 3-month period in the current or preceding year, or (2) employs 10 or more farmworkers on at least one day in each of 20 different weeks this year or last, or (3) pays more than \$1,000 for *non-agricultural* labor during the year, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-3783).* Unemployment claims may be filed online, at app.mt.gov/ui4u/index.

● WORKERS' COMPENSATION ACT

TERMS: Employers in Montana are generally required to enroll in a state-supervised workers' compensation plan.

Workers who are accidentally injured on the job are generally entitled to payment of the associated medical costs, and may receive cash benefits to compensate for loss of wages if the injury leads to temporary disability.

ENFORCEMENT: *Workers' Compensation Regulation Bureau, Employer Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-1555).* A farmworker who is injured on the job generally must file a report of the accident with the employer within 30 days after the injury in order to qualify for workers' compensation benefits. A worker who has a dispute concerning benefits may petition a workers' compensation judge for a determination.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● STATE LABOR LAWS (*DECEPTION IN RECRUITMENT*)

TERMS: It is illegal for anyone doing business in Montana to persuade workers to change from one place of employment to another within the state through deception, misinformation or false advertising concerning the kind of work available, the sanitary conditions on the job, other terms of employment, or the existence of a strike or similar labor dispute at the job site.

ENFORCEMENT: Using a private attorney or a public legal services program, a worker who has relocated within the state on the basis of false or deceptive job recruitment practices in violation of this provision may sue the employer or labor recruiter involved for damages suffered as a consequence of the violation.

PESTICIDES AND AGRICULTURAL CHEMICALS

● MONTANA PESTICIDES ACT

TERMS:

Agricultural Special-Use Permits — Farm operators who apply pesticides to their own crops must obtain a special-use permit before purchasing and using any restricted pesticide. To qualify for an initial five-year permit, farm applicators must either pass a written examination or attend a state-approved training course, to assure the applicant's practical knowledge of agricultural pests, pesticide product labeling, application procedures, the environment, pesticide poisoning symptoms, and accident procedures. Farm applicators must re-qualify for renewal of the permit by attending a 6-hour refresher course.

Commercial Applicator Licensing — It is illegal for anyone to apply pesticides for hire without first obtaining a commercial applicator's license from the state. Before such a license is issued, the applicant generally must pass a written examination to assure the person's competency to use pesticides safely and effectively, must obtain liability insurance covering potential damages caused by their pesticide application activities, and must meet other licensing requirements.

Prohibited Acts — The state enforcement agency may revoke or refuse to renew the license of any applicator who has, among other offenses, operated in a faulty or careless manner, operated faulty or unsafe equipment, refused or neglected to keep required records or make required reports, or used a pesticide in a manner contrary to instructions on the product's label. In addition, it is unlawful for anyone to handle, store or dispose of pesticides or pesticide containers in such a way as to endanger people, animals, food, other products or the environment, or to apply a pesticide contrary to label instructions.

ENFORCEMENT: *Agricultural Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5400).*

● ANHYDROUS AMMONIA FACILITIES SAFETY ACT

TERMS: The state agriculture department has adopted requirements for the safe transportation, handling and application of anhydrous ammonia by on-farm personnel. Some of the highlights are summarized here:

Transportation Systems — Ammonia containers of 2,000 gallons or less that are mounted on farm wagons used to transport ammonia must meet detailed specifications regarding construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them and constructed to prevent the towed wagon from whipping or swerving from side to side.

All farm wagons are required to carry at least 5 gallons of readily accessible clean water, for emergency treatment in the event of injuries to workers handling or applying the product.

Application Systems — Ammonia containers mounted on farm implements used for the field application of ammonia must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related devices. Applicators may not be filled any closer than 100 yards from any occupied building.

ENFORCEMENT: *Commodity Services Bureau, Montana Department of Agriculture, Helena, Montana 59601 (406-444-5419).*

WAGES AND HOURS

● MONTANA MINIMUM WAGE AND OVERTIME COMPENSATION ACT

TERMS:

Minimum Wage — Agricultural and non-agricultural employers who have annual gross sales over \$110,000 must pay their employees no less than either the state minimum wage (currently \$8.05 an hour) or the federal minimum wage (\$7.25), whichever is higher. Employers with sales not exceeding \$110,000 are generally required to pay their employees no less than \$4.00 an hour.

The state minimum wage rate may be adjusted each year, to reflect changes in the cost of living.

Seasonal Farm Employment — For farm employees who work seasonal periods for more than 8 hours a day and other seasonal periods for substantially less than 8 hours a day, an employer covered this law has three options:

- (1) Pay the worker by the hour, at or above the minimum wage rate specified above.
- (2) Pay the worker a fixed weekly or monthly amount, but guarantee the minimum wage for every hour on the job by keeping a record of the hours worked. The total wages paid to the worker may not be less than the minimum rate that applies, multiplied by the total number of hours worked.
- (3) Pay a monthly salary instead of the minimum wage, but in no case less than \$635 a month. The employer may include as part of the worker's salary the reasonable cost of providing housing or other facilities, as long as such benefits are customarily furnished by the employer to his or her workers, and that the costs for those benefits do not exceed 40 percent of the worker's total salary.

ENFORCEMENT: *Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-5600).* A worker who has been paid less than the wage or salary required under the minimum wage law may file a complaint with the Department.

As an alternative to filing a minimum wage claim with the Department, the law gives workers the right to sue the employer in civil court, using a private attorney or a public legal services program.

● WAGE PAYMENT LAWS

TERMS:

Method of Payment — Employers in Montana must pay wages (1) in lawful U.S. money, (2) by check exchangeable for cash on demand at full face value, or (3) by direct deposit, if the worker agrees in writing to this mode of payment.

Statement of Deductions — At the time of each payment of wages or salaries, employers must give each worker an itemized statement showing the amount and purpose of every deduction from the worker's pay. Where no deduction is made, the employer must provide the worker with a written statement to that effect.

Final Wages — When a worker is laid off or fired by an employer for cause, all unpaid wages are due immediately upon termination. In any other case, the employer generally must pay final wages within 3 days of termination.

ENFORCEMENT: *Wage and Hour Unit, Labor Standards Bureau, Employment Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604.* In general, a wage claim must be filed no later than 180 days after the unpaid wages were due.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

● FARM LABORERS' LIEN LAW

TERMS: A worker who has performed agricultural services for the owner or operator of a farm, and who completes the job but does not receive full pay for the work, is entitled to part of the money received from the sale of the farmer's crops (up to a limit of \$1,000) to recover the unpaid wages.

To enforce this right, or lien, the worker must file a claim with the Secretary of State, within 30 days after the job ends. Among other information, the claim must include the names and addresses of both the worker and the farm operator, note that the claim is a farm laborer's lien, describe the crop services the worker performed and dates of employment, identify the county where the crops are located, and state the amount of the wages agreed on and the amount of the unpaid wages.

Within 90 days after filing the claim, the worker must present the claim in civil court, using a private attorney or public legal services program. Once the unpaid wages have been received and the lien has been satisfied, the worker is required to file a termination statement with the Secretary of State's office, on a form prescribed for that purpose.

ENFORCEMENT: *UCC Division, Montana Secretary of State, Helena, Montana 59620 (406-444-2468).* As indicated above, the farm laborers' lien is enforceable only through the civil courts. The lien applies only to wages earned in the 60-day period immediately before filing the claim, so the lien should be filed as soon as possible after wages become due and unpaid.

● INDIVIDUAL INCOME TAX LAW

TERMS: Unlike earnings in most other industries, wages paid for agricultural labor in Montana are not subject to withholding of state income tax.

ENFORCEMENT: *Income and Withholding Taxes Bureau, Business and Income Taxes Division, Montana Department of Revenue, Helena, Montana 59604 (406-444-6900; toll-free 866-859-2254).*

SPECIAL NOTE: Even though farm employers are not required to deduct state income taxes from their employees' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Nebraska

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Employment Certificates — In general, no one under the age of 16 is permitted to work unless the employer first obtains from the child an employment certificate issued by the local school district, and an employment certificate generally may not be issued to anyone younger than 14.

Working Hours — Children 14 and 15 years of age are not allowed to work for more than 8 hours in any one day or more than 48 hours in any one week, nor before the hour of 6:00 a.m. or after 10:00 p.m.

Hazardous Occupations — Minors under 16 may not be employed in work that is dangerous to life, safety or health. Whether or not a particular activity is hazardous is judged by the enforcement agency case-by-case.

Exceptions for Weeding, Roguing or Detasseling Corn or Other Seed Products — Children under 16 and as young as 12 years old may be employed in these crop operations without the need of an employment certificate, under these three conditions:

- (1) The employment occurs outside school hours during June, July or August.
- (2) The child's legal residence is within 75 miles of the workplace.
- (3) The employer obtains written consent from the child's parent or guardian.

Children 12 through 15 years of age may be employed in this type of work only up to 48 hours in any one week, only up to 9 hours in any one day, and only between the hours of 6:00 a.m. and 8:00 p.m. (10:00 p.m. in the case of 14- and 15-year-olds).

An employer who employs a child under 16 years of age in weeding, roguing or detasseling corn or other seed products is required to provide at least 2 supervisors who are 18 years of age or older at each work location. The supervisors must be capable of assisting with issues of health, safety and wages. Likewise, the employer must provide the parents of each such child worker with an information sheet defining the terms of employment, including the availability of water and sanitation facilities on the job and the wages to be paid. The sheet must also include contact information for the state labor department for wage-complaint purposes.

ENFORCEMENT: *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).* School attendance officers also have authority to enforce the child labor law.

● COMPULSORY EDUCATION LAW

TERMS: In general, every person who has control of a child who will reach the age of 6 by January 1 of the current school year, but who has not reached age 18, must ensure that the child regularly attends an approved public, private, denominational or parochial day school each day the school is open and in session that year.

ENFORCEMENT: This law is enforced by city and county school districts, through attendance officers employed for that purpose.

CIVIL RIGHTS

● NEBRASKA FAIR EMPLOYMENT PRACTICE ACT

TERMS: With only limited exceptions, it is illegal for an employer who has 15 or more employees on each working day in 20 or more weeks of the current or preceding year, to commit any of the following discriminatory acts, among others:

- (1) To refuse to hire a job applicant, to fire a worker, or to discriminate in any other manner against an individual with respect to wages or employment conditions, because of the individual's race, color, religion, sex, disability, marital status, or national origin.
- (2) To segregate or classify employees on any of those same grounds, in a way which would limit a person's employment opportunities or otherwise negatively affect the person's status as an employee.
- (3) To publish or circulate any employment-related notice or advertisement which indicates a preference or discrimination based on race, color, religion, sex, disability, marital status, or national origin, except where religion, sex, disability, marital status, or national origin is a bona fide occupational qualification for employment.

Similar discriminatory acts by employment agencies and labor organizations are also illegal.

ENFORCEMENT: *Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112).* A person who has suffered from a discriminatory employment practice or act may file a complaint with the Commission at any time within 300 days after the practice or act occurred.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● EQUAL PAY LAW

TERMS: In general, employers with 15 or more workers on each working day in 20 or more weeks during the current or preceding year are forbidden from paying wages to workers of one sex at a rate less than the rate paid to workers of the opposite sex for essentially equal work.

Wage differences based on seniority, merit, quantity or quality of production, or any other factor other than gender are generally not regarded as discriminatory.

ENFORCEMENT: *Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112).*

As an alternative to filing a claim or complaint with the Commission, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● **AGE DISCRIMINATION IN EMPLOYMENT ACT**

TERMS: It is generally unlawful for an employer who had 20 or more workers on each working day in 20 different calendar weeks this year or last, to refuse to hire a job applicant, to fire a worker, or to discriminate against a person in any other way with respect to employment conditions, because of the person's age, when the demands of the job do not require a distinction by age.

It is also illegal for such an employer to utilize an employment agency, labor organization or any other source of job applicants in the hiring or recruitment of workers when the employer knows that the agency or organization discriminates against job-seekers on the basis of age.

These protections apply only to workers who are at least 40 years old.

ENFORCEMENT: *Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112).*

If the Commission does not take legal action against the employer named in a worker's complaint within 60 days after a complaint is filed, the worker may sue the employer directly, using a private attorney or public legal services program.

Court action, either by the Commission or by the worker, must commence no later than 4 years after the violation occurred.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

INSURANCE AND COMPENSATION

● **EMPLOYMENT SECURITY LAW**

TERMS: Every farm operator or other agricultural employer who paid cash agricultural wages amounting to at least \$20,000 during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more farmworkers for some portion of a day in each of 20 different calendar weeks in the current or previous year, is required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. The amount of benefits generally depends on the worker's recent earnings.

ENFORCEMENT: *Office of Unemployment Insurance, Nebraska Department of Labor, Lincoln, Nebraska 68509 (402-458-2500).* Applications for unemployment compensation may be filed online, at networks.nebraska.gov/vosnet/loginintro.aspx.

● **NEBRASKA WORKERS' COMPENSATION ACT**

TERMS: A farm operator or other agricultural establishment is required to carry workers' compensation insurance covering its employees, or to qualify as a self-insurer, if it employs 10 or more unrelated full-time workers on each working day for 13 calendar weeks in any calendar year. The employer's obligation to comply begins 30 days after the 13th such week.

A worker who is injured on the job — or develops an occupational disease — while working for an employer who meets these conditions is generally entitled to compensation for the injury or disease. Among other potential benefits, workers' compensation may include medical, surgical and hospital services, and cash payments to make up for lost wages due to disability.

ENFORCEMENT: *Nebraska Workers' Compensation Court, Lincoln, Nebraska 68509 (402-471-6468; toll-free 800-599-5155).*

LABOR CONTRACTORS AND WORKER RECRUITMENT

● **EMPLOYMENT AGENCY LAW**

TERMS: In general, it is illegal for a person to charge a worker a fee of any kind in return for finding the worker a job or arranging employment, unless the person is licensed by the state as a private employment agency. Similarly, no one from outside the state may enter Nebraska and attempt to recruit, hire or transport out of Nebraska any agricultural workers, singly or in groups, for any purpose without an employment agency license permitting such activity. Among other conditions, each applicant for a license must be bonded in the amount of \$10,000.

Every person licensed under this law must issue to each worker placed on the job, and to each employer furnished with one or more workers, a record showing the occupation involved, the name and address of the worker, the amount of the fee charged the worker, the wages to be paid, the name and address of the employer, and the existence of any known strike or similar labor dispute at the job site.

ENFORCEMENT: *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).*

● FARM LABOR CONTRACTORS ACT

TERMS:

Licensing — Except for agricultural employers, agricultural associations and their employees, no one may — for pay — recruit, hire or supply migrant or seasonal farmworkers without having a valid farm labor contractor's license issued by the state. Contractors with a workforce at least 80 percent of whom are under the age of 18 may be exempted from the licensing requirement.

Bonding — Before a contractor's license can be issued, the applicant must obtain a bond in an amount not less than \$5,000 as security for full payment of any wage claims filed by workers. Every farm labor contractor covered by this law must post a notice at each workplace advising the workers of the terms of the bond and showing the name and address of the bonding agent.

Notification — At the time of recruitment, hiring or assignment to the job, each worker employed through a licensed farm labor contractor must be given a written statement showing (1) the rate of pay and the method of calculating pay, (2) the terms and conditions of any bonus to be paid, (3) the terms and conditions of any housing, health or daycare services to be provided, (4) the expected length of the job and the estimated start and end dates, (5) the terms and conditions under which the worker will be provided with clothing or equipment, if any, (6) the name and address of the owner of all operations where the worker will be working, and (7) the worker's rights in plain and simple language.

Pay Statements — With each payment of wages, workers employed through a labor contractor must receive a written statement showing total earnings, the amount and purpose of each deduction from wages, the number of hours worked, and the amount of work performed (if paid on a piecework basis).

Bilingual Assistance — A farm labor contractor who has a workforce of 10 or more non-English-speaking workers who speak the same language is required to provide a bilingual employee at the worksite for each shift during which a non-English-speaking worker is on the job.

ENFORCEMENT: *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE ACT

TERMS: No one may use a restricted-use pesticide in Nebraska unless the person is licensed as a commercial applicator, non-commercial applicator or private applicator, and is authorized by the license to use the product for the proposed use. As a condition for a license, applicants must pass an examination specific to the activity they will engage in and covering subjects including (1) pesticide labeling, (2) pesticide hazards, symptoms, and precautions, (3) environmental risk, (4) pest identification, (5) equipment, (6) application techniques, (7) equipment calibration, and (8) pesticide application laws and regulations. Depending on the license category involved, applicators may also be required to undergo performance testing, to demonstrate competency in their respective category.

Among other violations, it is unlawful for anyone (1) to use a pesticide contrary to the Pesticide Act or to the product label, (2) to store or dispose of a pesticide or pesticide container in a way that is likely to cause injury to humans, the environment, vegetation, crops, livestock, wildlife or pollinating insects, or (3) to fail to make and preserve required records.

ENFORCEMENT: *Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080).* Inspectors from this agency may conduct routine inspections of pesticide dealers and applicators and may also investigate reports of pesticide misuse. A formal complaint can be submitted to the Department by telephone or in writing.

● PESTICIDE ACT (*AERIAL APPLICATORS*)

TERMS: No one may apply pesticides by use of an aircraft unless he or she holds a Nebraska aerial pesticide business license, or is employed by a licensed pesticide business. Likewise, a person licensed as a commercial applicator may apply pesticides from an aircraft only under the direct supervision of a person holding a Nebraska aerial pesticide business license. The license application must include, among other things, the FAA registration number of all aircraft owned, rented or leased by the applicant that will be utilized for aerial pesticide operations.

Aerial applicators must demonstrate practical knowledge specifically related to aerial spraying, including equipment calibration and maintenance, target crops and pests, pesticide drift and potential for non-target injury, and re-entry intervals.

ENFORCEMENT: *Pesticide Program, Animal and Plant Health Protection, Nebraska Department of Agriculture, Lincoln, Nebraska 68509 (402-471-2351; toll-free 877-800-4080).*

TRANSPORTATION

● MOTOR VEHICLE OPERATOR'S LICENSE ACT (*TEMPORARY IMMUNITY FOR NON-RESIDENTS*)

TERMS: Individuals who are not residents of Nebraska (including migrant farmworkers from out of state), but who are licensed to drive in their home state, are generally entitled to operate a motor vehicle on the streets and highways of Nebraska for up to 30 days without obtaining a Nebraska driver's license.

Furthermore, a person who is certified by the state labor department as being temporarily employed in agriculture in Nebraska for no more than 60 days may drive a vehicle for an additional 30 days without a Nebraska license if the worker's home state offers similar privileges to residents of Nebraska while temporarily employed in agriculture in that other state.

ENFORCEMENT: *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).* This agency is authorized to provide the certification of temporary farm employment necessary for extended exemption from the driver's license requirement.

WAGES AND HOURS

● NEBRASKA WAGE PAYMENT AND COLLECTION ACT

TERMS:

Paydays — Each employer must pay all wages due on regular paydays designated by the employer, or agreed upon by the employer and the worker. An employer must give 30 days' written notice of any change in regular paydays.

Pay Statements — On each regular payday, the employer generally must provide each worker with a statement showing, among other things, the number of hours worked, the wages earned, and any deductions made from the worker's gross pay.

Wage Deductions — An employer is prohibited from deducting or withholding any portion of a worker's wages unless required by state or federal law or court order, or unless authorized in writing by the worker.

Final Pay — Whenever an employer fires or lays off a worker, or when the job ends, the worker's unpaid wages are due on the next regular payday, or within 2 weeks of the date of termination, whichever is sooner.

Payment by Debit Card — Employers who choose to pay wages with a payroll debit card must follow federal rules against compulsory use of electronic fund transfers as a condition of employment. Additionally, the employer must allow a worker at least one withdrawal per pay period at no cost to the worker.

ENFORCEMENT: *Office of Labor Standards, Nebraska Department of Labor, Lincoln, Nebraska 68508 (402-471-2239).* This agency may assist workers in trying to resolve unpaid wage claims, and a form for that purpose is available on the Department's website, at dol.nebraska.gov/LaborStandards/WageComplaint/WageComplaintForm.

When informal attempts to collect unpaid wages fail, the Wage Payment and Collection Act can be enforced in civil court. A worker who has not received full pay within 30 days of the regular designated or agreed-on payday may file suit against the employer, using a private attorney or public legal service provider.

● NEBRASKA REVENUE ACT OF 1967

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following February 15 — or within 30 days after the last payment of wages, in the case of a worker whose job ended before the end of the year — the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld.

ENFORCEMENT: *Compliance Division, Nebraska Department of Revenue, Lincoln, Nebraska 68509 (402-471-5913).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Nevada

CHILD LABOR

● CHILD LABOR LAWS

TERMS: In general, it is illegal for any person, firm or corporation to employ a child under 14 in agriculture during the hours in which the public schools where the child resides are in session. Furthermore, no one under the age of 16 is permitted to work at any time in any farm job that involves the operation of machinery. There are generally no other state restrictions on the use of child labor in agriculture.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).*

The provision prohibiting employment of children during school hours is also enforced by the local school districts.

● COMPULSORY ATTENDANCE LAW

TERMS: Each parent or other person having control of a child between the ages of 7 and 18 must send the child to a public school (or its equivalent) for the entire school term.

ENFORCEMENT: This law is enforced by the local school boards, through attendance officers appointed for that purpose.

CIVIL RIGHTS

● EQUAL EMPLOYMENT OPPORTUNITIES LAW

TERMS: Employers who had 15 or more workers on each working day in 20 or more weeks this year or last are prohibited from:

- (1) Refusing to hire a job applicant, firing an employee, or discriminating in any other way against a worker because of the worker's race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin.
- (2) Limiting, segregating or classifying a worker on any of these same grounds, in a way that would limit the worker's job opportunities or negatively affect the person's status as an employee.
- (3) Printing or circulating any employment notice which indicates a preference or limitation based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, or national origin.

Similar acts of discrimination by employment agencies are likewise unlawful.

ENFORCEMENT: *Nevada Equal Rights Commission, Nevada Department of Employment, Training and Rehabilitation, Las Vegas, Nevada 89104 (702-486-7161).*

If the Commission's investigation of a worker's complaint does not find evidence of a violation, the worker may take the complaint to civil court, using a private attorney or a public legal services program. Action in court cannot be undertaken later than 180 days after the act of discrimination occurred (not counting the time the complaint was being considered by the Commission).

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right under this law.

● WAGE, HOUR, AND WAGE PAYMENT LAWS (*EQUAL PAY*)

TERMS: It is illegal for an employer to pay lower wages to one worker than the wages paid to a worker of the opposite sex who performs equal work, provided the job requires equal skill, effort and responsibility and is performed under similar working conditions. This does not, however, prohibit the payment of unequal wages where workers are paid according to length of time on the job, quality or quantity of production, or any similar factor other than the workers' sex.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).*

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right under this law.

● MISCELLANEOUS EMPLOYMENT LAWS (*COMPULSORY TRADE*)

TERMS: It is a criminal offense for a farm operator, labor contractor or anyone else conducting business in Nevada to use force or threats to influence a worker to trade at a particular store or with a particular company.

ENFORCEMENT: These provisions are enforced by public prosecuting attorneys in criminal court. A worker who has been affected by a violation may wish to consult a private attorney or public legal services program about possible legal action in civil court against the person responsible.

HEALTH AND SAFETY

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers in Nevada are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state industrial relations agency has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

TERMS: Under Nevada's occupational safety and health law, the state industrial relations agency has adopted regulations requiring certain agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm employers that have more than 10 workers in the field on any given day.

ENFORCEMENT: *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).* A worker or worker representative who believes a violation of the field sanitation provisions has occurred may request an investigation by notifying NVOSHA.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HOUSING

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, the state industrial relations agency has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Nevada's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).* A worker or worker representative who is aware of a violation of the temporary labor camp standards may request an investigation by notifying NVOSHA.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● STATE SANITATION LAWS (*CONSTRUCTION AND LABOR CAMPS*)

TERMS: Every labor camp that houses 5 or more farmworkers or other employees may be inspected periodically by state and local health authorities and must comply with detailed health and sanitation standards adopted by the state board of health. Among many other factors considered in determining if a housing facility meets state standards are these:

- The building site
- The water system
- Living and sleeping quarters
- Cooking and eating facilities
- Toilet facilities
- Bathing facilities
- Laundry facilities
- Garbage and sewage disposal systems
- Lighting

ENFORCEMENT: *Environmental Health Section, Division of Public and Behavioral Health, Nevada Department of Health and Human Services, Carson City, Nevada 89701 (775-687-7533).*

Local boards of health have the same inspection and enforcement authority as the state agency.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: A farm operator or other employer who paid cash agricultural wages of \$20,000 or more in any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 agricultural workers for some part of a day in 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Employment Security Division, Nevada Department of Employment, Training and Rehabilitation, Carson City, Nevada 89713 (775-684-0420).* Unemployment claims may be filed by phone, at 888-890-8211, or online at ui.nv.gov/css.html.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY LAW

TERMS: In general, it is illegal for any person or firm to charge a fee for providing information to workers enabling them to obtain jobs, or for providing information to employers enabling them to obtain workers, unless the person or firm doing so is licensed as an employment agency. Employers who recruit workers for their own operation are not considered employment agencies.

Before a license is issued, the applicant must post a \$1,000 bond or equivalent security, to cover damages resulting from violations of this law by the license-holder. Among other unlawful acts, employment agencies and employment agents are prohibited from circulating any false or misleading information concerning employment or labor, or sending a worker to any place of employment where a strike or similar labor dispute is in progress without first advising the worker of that fact in writing.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).* In response to a complaint filed by a worker, this agency is authorized to take legal action on the bond of any licensee, for damages suffered by the worker as a result of the licensee's business operations.

● MISCELLANEOUS EMPLOYMENT LAWS (*MISREPRESENTATION IN RECRUITMENT*)

TERMS: It is illegal for anyone doing business in Nevada to persuade workers to move from one place of employment to another, or to bring workers into the state for employment of any kind, by means of false advertising or false information concerning the type of work to be done, the wages or benefits to be provided, the job conditions, or the existence or non-existence of a strike or other labor problems at the job site.

ENFORCEMENT: These provisions are enforced by public prosecuting attorneys in criminal court. A worker who has suffered damages from a violation may wish to consult a private attorney or public legal services program about possible legal action in civil court against the person responsible.

PESTICIDES AND AGRICULTURAL CHEMICALS

● CUSTOM PESTICIDE APPLICATION LAW

TERMS:

Licensing — In general, no one may engage in pest control activities without a license issued by the state. Among other qualifications, an applicant for a pest control license must have at least 2 years' practical pest control experience, or an acceptable combination of education and experience. The applicant must present proof of bonding or insurance in an amount not less than \$50,000. In addition, an applicant may have to obtain drift insurance whenever he or she intends or expects to use pesticides that are hazardous to humans, livestock, crops or wildlife.

Certification — Aside from the licensing requirement, anyone who intends to use or supervise the use of any restricted pesticide must first obtain a certificate from the state authorizing such activity. Certification requires that the applicant, among other conditions, demonstrate adequate knowledge of the proper use of such materials, and of the hazards involved and precautions to be taken in connection with their use.

Prohibited Acts — It is unlawful for licensed and certified pesticide applicators in the state to operate faulty or unsafe equipment, to apply pesticides in a faulty or careless manner, to continue to operate when the required insurance or bonding has expired or been canceled, to fail to keep required records or make required reports, to apply a pesticide product contrary to instructions on the product's label or contrary to other restrictions imposed by the state agency, or to violate any other provision of the pesticide laws and regulations.

ENFORCEMENT: *Plant Industry Division, Nevada Department of Agriculture, Sparks, Nevada 89431 (775-353-3729).* Anyone with a complaint involving the application or use of pesticides should report the matter to the Department within 60 days after the cause for the complaint occurred.

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

TERMS: Under the authority of the occupational safety and health law, the state industrial relations agency has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).* A covered worker who believes that he or she is being or has been exposed to a toxic material in the workplace, and who has been denied notification or related information by the employer involved, should contact NVOSHA.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT (*ANHYDROUS AMMONIA*)

TERMS: Under Nevada's occupational safety and health law, the state industrial relations agency has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Nevada's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Nevada Occupational Safety and Health Administration (NVOSHA), Division of Industrial Relations, Nevada Department of Business and Industry, Henderson, Nevada 89074 (702-486-9020).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

TRANSPORTATION

● MOTOR CARRIER REGULATION AND LICENSING LAWS (*PERMIT FOR EMPLOYEE TRANSPORTATION*)

TERMS: A farm operator or other employer who transports workers between their work location and their home or central parking area must obtain a permit from the state to do so, or else comply with the licensing and inspection laws that apply to commercial motor carriers.

The permit application must show the employer's name, the places where workers will be picked up and dropped off, the location of the workplace or job sites, identification of the vehicles to be used, and the amount (if any) to be charged the workers for providing transportation service.

An employer transporting employees to and from the workplace may not charge more than the amount required to cover the cost of the vehicle and its operation.

ENFORCEMENT: *Van Pool Registrar, Nevada Transportation Authority, Reno, Nevada 89502 (775-688-2800).*

WAGES AND HOURS

● MINIMUM WAGE LAWS

TERMS:

Minimum Wage — Farm operators and other agricultural employers who used more than 500 worker-days of agricultural labor in any calendar quarter during the previous year — for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December — are required to pay their adult agricultural workers no less than the state minimum wage.

Currently the state minimum wage is \$7.25 in the case of employers who provide their employees with health benefits, and \$8.25 for employers who do not provide health benefits.

Exception — The minimum wage *does not apply* to workers under the age of 18.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).*

As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to collect unpaid minimum wages, using a private attorney or a public legal services program. A lawsuit to collect unpaid minimum wages must be filed within 2 years after the wages were first due.

SPECIAL NOTE: Employers are prohibited from firing a worker, reducing a worker's wages, or otherwise discriminating against a worker for filing an administrative or civil court complaint to enforce payment of the minimum wage.

● **WAGE, HOUR, AND WAGE PAYMENT LAWS (MEAL AND REST PERIODS)**

TERMS: A farm operator or any other employer who has more than one worker at any location may not employ such workers for 8 hours straight without providing a meal period of at least 30 minutes. Similarly, farmworkers (other than those working alone) who are employed for 3½ hours or more on any given day are entitled to a paid rest break of 10 minutes for every 4 hours or fraction thereof on the job.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).* A worker who is denied a meal period or a paid rest break as required under these provisions may file a complaint with the Commissioner, who is authorized to prosecute for enforcement through the local district attorney.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **WAGE, HOUR, AND WAGE PAYMENT LAWS (PAYMENT AND COLLECTION OF WAGES)**

TERMS:

Paydays — Every employer must establish and maintain regular paydays and must post notices, in at least 2 conspicuous places where they can be seen by the workers, indicating the regular paydays and place of payment.

Frequency of Payment — All wages of workers in private employment must be paid no less often than twice a month. Wages earned before the 1st day of any month are payable no later than 8:00 a.m. on the 15th day of that month, while wages earned before the 16th are payable no later than 8:00 a.m. on the last day of the month.

Payment at Termination — Whenever an employer fires or lays off a worker, or whenever the job ends, the worker's final wages must be paid immediately. The unpaid compensation of a worker who quits must be paid no later than the next regular payday, or 7 days after the resignation, whichever is earlier.

Method of Payment — In general, wages must be paid (1) in lawful U.S. money, (2) by check, payable in lawful U.S. money, or (3) by electronic payment such as direct deposit or debit card.

Electronic payment may be used only if (1) the worker can obtain immediate payment in full, (2) the worker receives at least one free transaction per pay period, (3) the ATM or other location where wages may be accessed in cash is conveniently located, (4) there are no other unreasonable or inconvenient requirements or restrictions, and (5) the use of electronic payment is optional for the worker.

Recordkeeping — Every employer must maintain payroll records on each worker for each payroll period, including (1) gross cash wages, (2) deductions, (3) net cash wages, (4) hours employed per day and total hours for the pay period, and (5) the date of payment. Required payroll data must be furnished to the worker within 10 days of any such request.

ENFORCEMENT: *Office of the Labor Commissioner, Nevada Department of Business and Industry, Carson City, Nevada 89706 (775-684-1890).* A claim for unpaid wages, or a complaint charging any other violation of the wage payment and collection provisions, may be submitted to the Commissioner, who must assist in resolving the claim or complaint.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

New Hampshire

CHILD LABOR

● YOUTH EMPLOYMENT LAW

TERMS:

Minimum Age — Generally, no one under 12 years of age may be employed or permitted to work in agriculture or any other industry, except in short-term or low-paying jobs.

Hazardous Occupations — No one under 18 may be employed in any activity classified as hazardous by the U.S. Department of Labor (*see entry, U.S. — Child Labor*).

Hours Restrictions —

Minors Under Age 16 — In general, it is illegal for a farm operator or any other employer to employ a child under 16 before 7:00 a.m. or after 9:00 p.m. Employment of minors under 16 is limited to 3 hours on any school day, 8 hours on a non-school day, 23 hours during any week when school is in session, and 48 hours a week during school vacation periods.

Minors Age 16 and 17 — Children 16 and 17 years of age who are enrolled in school generally may not work for more than 6 consecutive days or more than 30 hours during a school week, or for more than 6 consecutive days or 48 hours in any one week during school vacation periods.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

These provisions are also enforced by truant officers employed by the local school districts.

● COMPULSORY SCHOOL ATTENDANCE LAWS

TERMS: With few exceptions, every child who has reached the age of 6 before September 30 in a particular school year, but who is not yet 18, must attend a public or approved private school throughout the time the public schools are in session that year. A person having custody of such a child must see that the child attends school during the entire school year.

ENFORCEMENT: These provisions are enforced by the local school boards.

CIVIL RIGHTS

● LAW AGAINST DISCRIMINATION

TERMS: In general, it is illegal for a farm operator or any other employer with 6 or more workers to refuse to hire a job applicant, to fire a worker, or to discriminate against an applicant or worker regarding the terms or conditions of the job, because of the individual's age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation.

Further, it is unlawful for any such employer to circulate an employment-related statement or advertisement, or to use a job application form, which expresses a preference or discrimination on grounds of age, sex, race, color, marital status, physical or mental disability, religious creed, national origin, or sexual orientation, unless based on a legitimate occupational qualification.

Similar acts committed by an employment agency or labor organization are also prohibited.

ENFORCEMENT: *Commission for Human Rights, Concord, New Hampshire 03301 (603-271-2767).* A worker who has been subjected to employment discrimination may file a complaint with the Commission at any time within 180 days after the violation occurred.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WHISTLEBLOWERS' PROTECTION ACT

TERMS: It is illegal for an employer to harass, abuse, intimidate, fire, threaten or otherwise discriminate against a worker because the worker:

- (1) In good faith reports what he or she reasonably believes is a violation of a state or federal law or regulation.
- (2) Objects to or refuses to participate in an activity that the worker, in good faith, believes is a violation of the law.
- (3) Refuses to carry out an order that violates a state or federal law or regulation.
- (4) Participates in an investigation, hearing or inquiry conducted by a governmental agency or court, concerning alleged violations of the law by the employer.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: In general, every agricultural employer who paid agricultural wages amounting to at least \$20,000 in any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more agricultural workers for some part of a day in at least 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. Benefits currently range from \$32 to \$427, depending on past earnings.

ENFORCEMENT: *Unemployment Compensation Bureau, New Hampshire Employment Security, Concord, New Hampshire 03301 (603-228-4031).* Unemployed workers who believe they are eligible for benefits may file a claim online, at nhuis.nh.gov/claimant/login.

● WORKERS' COMPENSATION LAW

TERMS: Farm operators and other agricultural employers in New Hampshire are required to have workers' compensation insurance, or to provide proof to the state of their ability to pay workers' compensation directly.

Farmworkers who are accidentally injured while on the job, or who are disabled by an occupational disease, are generally entitled to payment of the cost of medical treatment and to weekly cash payments to compensate for loss of wages. Such benefits are payable to the worker's dependents if the injury or disease results in the worker's death.

ENFORCEMENT: *Workers' Compensation Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).* A worker who is injured on the job should report the injury to the employer as soon as possible. Workers' compensation claims are normally not valid unless notice is given within 2 years from the date of injury.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL LAW

TERMS:

Registration Certificates — No one may engage in the commercial application of pesticides, or in the private application of restricted pesticides, without a valid certificate of registration issued by the state. Every person who applies for a registration certificate is required to demonstrate competence in the safe and effective use of pesticides, and certain commercial applicators must provide proof of insurance covering potential damages from their pest control operations.

Permits — In general, no one other than a commercial applicator may apply pesticides in New Hampshire without first obtaining a written permit from the state. Issuance of a permit requires the applicant to demonstrate the ability to use pesticides safely.

Damage to Non-Target Areas — It is illegal for anyone to apply pesticides in a way that causes or could cause contamination of areas not targeted for treatment. Pesticides may not be applied by power equipment whenever wind conditions could cause contamination of a non-target area.

Pesticide Disposal — Unusable pesticides generally must be disposed of in an authorized solid waste or hazardous waste treatment storage disposal facility. Empty pesticide containers must be disposed of in accordance with prescribed procedures. Pesticide containers may not be used for any purpose not described on the product label and may not be used to store water, food, animal feed, cooking utensils, dishes or clothing.

ENFORCEMENT: *Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550).*

● PESTICIDE CONTROL LAW (AERIAL APPLICATION)

TERMS: The state pesticide control board has established rules regulating the application of pesticides by aircraft.

Prior Approval of Aerial Applications — No one may apply pesticides using an airplane, helicopter or other aircraft without first obtaining a permit to do so from the enforcement agency.

Public Notifications —

Non-Residential Areas — If a proposed aerial application is in a non-residential area, the applicant for a permit must publish a notice about it in a general-circulation newspaper in the affected area. The applicant must also provide written notice to property owners within 1,320 feet of the treatment area and to certain public officials, summarizing the proposed aerial treatment and advising all parties that they have 15 days from the date of the notice to submit written comments to the state agency.

Residential, Commercial and Institutional Buildings — If residential, commercial or institutional buildings (such as schools and hospitals, for example) are located within 200 feet of the proposed treatment area, a written notice of an aerial pesticide application must be submitted to all persons owning, living in or using the properties, no sooner than 60 days and no later than 14 days before the application is to begin. The notice must include a description of the treatment area, the name of and contact information for the applicator or the person requesting the treatment, the purpose of the application, the pesticides to be used, the dates during which the treatment will take place, the telephone number of the state pesticide enforcement agency, the telephone number of the New Hampshire Poison Control Center, and the public-related precautions that appear on the pesticide product label.

ENFORCEMENT: *Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550).*

● PESTICIDE CONTROL LAW (WORKER PROTECTION)

TERMS: Agricultural employers who use any pesticide product whose label mentions EPA's worker protection standard (see entry, *U.S. — Pesticides and Agricultural Chemicals*) are required to provide pesticide safety training to their workers. The training requirement — which applies to workers who mix, load or apply pesticides and to those who may come into contact with pesticides in the field — must conform with both EPA and state regulatory requirements.

Workers who complete training provided by a qualified pesticide safety trainer must receive a signed certificate confirming the date of training, the trainee identification number, the name of the trainer, and the location where the training was provided. The certificate is valid for 5 years.

ENFORCEMENT: *Division of Pesticide Control, New Hampshire Department of Agriculture, Markets and Food, Concord, New Hampshire 03301 (603-271-3550).*

● WORKER'S RIGHT TO KNOW ACT

TERMS:

Safety Data Sheets — Every farm operator or other employer whose workers use or are exposed on the job to any toxic pesticide or other hazardous substance must make available a document containing important information about each such substance to any worker who requests it, within 72 hours after the request is received by the employer. This document, known as a "safety data sheet," shows the name of the material, its hazards and health effects, the symptoms of over-exposure, the precautions to be followed in its use, and appropriate emergency and first-aid procedures.

Posted Notice — The employer is required to post a written warning at the worksite identifying each toxic substance to which the workers may be exposed, the hazards involved, symptoms of exposure, the proper conditions for safe use, cleanup procedures, and emergency measures. In addition, there must be a posted notice advising the workers of their right to a copy of each safety data sheet.

Education and Training — During the first month of employment for all workers regularly exposed to toxic substances on the job, the employer must conduct an education and training program to inform them of the nature of the substances to which they will be exposed, outline appropriate handling procedures, and warn them of the potential risks involved.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. A worker who has experienced any form of retaliation by an employer in connection with the Right to Know Act may file a complaint at any time within 30 days after learning of the violation.

WAGES AND HOURS

● EMPLOYEE PROTECTIVE LEGISLATION (*DAY'S WORK AND DAY OF REST*)

TERMS:

Day's Work — In all contracts relating to labor (including agricultural services), 8 hours is deemed a day's work, unless otherwise agreed to by the parties.

Meal Periods — In general, no farm operator or any other employer in New Hampshire may require an employee to work more than 5 consecutive hours without a half-hour lunch or eating period.

Making Up Lost Time — An employer may not require a worker in any occupation to work more hours in any one day than allowed by law, in order to make up time lost to a legal holiday.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

● WAGE PAYMENT LAWS

TERMS: New Hampshire's wage payment laws, summarized below, apply only to those farm operators and other agricultural establishments that employ 5 or more workers in farm labor.

Pay Periods and Paydays — Every covered employer generally must pay wages no less often than once a week, within 8 days after the end of the week in which the work is performed, and on regular paydays designated in advance by the employer.

Method of Payment — Wages normally must be paid (1) in lawful U.S. currency, (2) by electronic fund transfer, (3) by direct deposit to a bank chosen by the worker, (4) with a payroll or debit-type card, or (5) by check, drawn on a bank convenient to the place of employment and where arrangements have been made to allow workers to cash their paychecks at full value.

If wages are paid using a payroll card, the employer must provide the worker at least one free withdrawal of any portion or all of the balance on the card per pay period. None of the costs of the payroll card account may be passed on to the worker.

Final Wages — Whenever an employer lays off or fires a worker, the employer must pay the worker's final wages in full within 72 hours of termination. A worker who quits, on the other hand, is entitled to receive final pay no later than the next regular payday, or within 72 hours if the worker gave at least one pay period's notice of intention to quit.

Wage Withholding — No employer may withhold or divert any portion of a worker's wages unless required or authorized to do so by state or federal law, or the employer has written authorization from the worker to make the deduction for a lawful purpose and for the worker's own benefit. Employers are obligated to furnish each worker with a statement of deductions from pay for each pay period in which such deductions are made.

Disclosure — At the time of hiring, each worker must be notified by the employer as to the rate of pay and the day and place of payment. The employer must also notify each worker before making any changes in these terms.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

As an alternative to enforcement by the Department, a worker may collect unpaid wages by taking legal action against the employer in civil court, using a private attorney or public legal service provider.

● WAGE PAYMENT LAWS (*REQUIRED PAY*)

TERMS: Whenever a farm operator or other agricultural establishment with 5 or more workers requests a worker to report to work on any given day, the worker is generally entitled to at least 2 hours' pay at the worker's regular rate, unless the employer made a good-faith effort to notify the worker not to report that day.

ENFORCEMENT: *Inspection Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176).*

As an alternative to filing a wage claim with the Department, the law gives workers the right to sue the employer in civil court to enforce this provision, using a private attorney or a public legal services program.

New Jersey

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Minimum Age — Children as young as 12 may be employed in agriculture, but with the limitations described below.

Hazardous Occupations — Children under 16 are forbidden to work around power-driven machinery or toxic dusts or fumes, which may include certain agricultural chemicals. No worker under 18 is allowed to operate power field choppers, power hay balers or mechanical corn pickers.

Employment Permits — Children under the age of 16 must have a special agricultural employment permit before being allowed to work on a farm. A permit may be issued by a local school district only upon application by the child's parent or guardian, and only if school officials determine that the work will not interfere with the child's health or schooling. The application must show the exact nature of the work, as well as the hours, wages and other conditions of the job.

Working Hours — No one under the age of 18 years may work in agriculture for more than 10 hours in any one day, or for more than 6 days or 60 hours in any one week. On any school day, the combined time in school and on the job may not exceed 8 hours. There are no time-of-day restrictions on minors employed in agriculture.

Lunch Periods — No one under 18 may be allowed to work for more than 5 hours straight without a lunch period of at least 30 minutes. Any break of less than 30 minutes counts as part of the 5-hour work period.

ENFORCEMENT: *Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305).*

The child labor laws may also be enforced by school attendance officers.

● COMPULSORY EDUCATION LAWS

TERMS: Every parent, guardian or other person having custody and control of a child between the ages of 6 and 16 years must assure that the child regularly attends public school, or receives equivalent instruction, during the entire time the public schools in the local district are in session.

ENFORCEMENT: These provisions are enforced by the local school districts, through attendance officers employed for that purpose, assisted by city and county law enforcement officers.

● WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

TERMS: If a workers' compensation claim involves the job-related injury or death of a child under 14 years of age who was employed at the time of the injury in violation of the child labor laws, or a minor 14 years old or over who was employed without a required employment certificate or in an occupation prohibited at the minor's age by law, the child or the child's dependents are entitled to *twice* the dollar amount of compensation or death benefits that would normally be payable for the injury under the workers' compensation law.

The employer alone, not the employer's insurance company, is responsible for paying the extra compensation in such cases.

ENFORCEMENT: *Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515).*

CIVIL RIGHTS

● LAW AGAINST DISCRIMINATION

TERMS: With certain exceptions, it is illegal for employers in New Jersey, because of a person's race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, nationality, gender identity or expression, disability, atypical hereditary cellular or blood trait, liability for U.S. military service, or refusal to submit to a genetic test or reveal the results of a genetic test:

- (1) To refuse to hire the person.
- (2) To fire the person.
- (3) To require the person to retire, unless justified by legitimate factors other than age.
- (4) To discriminate against the person in compensation or in the terms, conditions or privileges of employment.

It is also unlawful to print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality, pregnancy, sex, or liability of a job applicant for U.S. military service, unless such distinction is a bona fide occupational qualification.

Similar discriminatory acts by employment agencies and labor organizations are likewise prohibited.

ENFORCEMENT: *Division on Civil Rights, Department of Law and Public Safety, Trenton, New Jersey 08625 (609-292-4605).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● CONSCIENTIOUS EMPLOYEE PROTECTION ACT

TERMS: Employers in New Jersey are prohibited from retaliating against a worker because the worker does any of the following:

- (1) Reports or threatens to report — to a supervisor, or to a public agency or official — an activity, policy or practice of an employer that the worker reasonably believes is in violation of the law, or is fraudulent or criminal.
- (2) Provides information to or testifies before a public body that is conducting an investigation, hearing or inquiry into a violation of law by an employer.
- (3) Objects to or refuses to participate in an activity, policy or practice that the worker reasonably believes is fraudulent, criminal, or in violation of the law.

The protection against retaliation for reporting an alleged violation to a public body does not apply unless the worker first brings the violation to the attention of a supervisor in writing, and gives the employer a reasonable opportunity to correct the unlawful activity, policy or practice involved.

ENFORCEMENT: A worker who has experienced unlawful retaliation under this law may, within one year after the retaliation occurs, file a civil lawsuit against the offending employer, using a private attorney or public legal service provider.

HEALTH AND SAFETY

● DRINKING WATER AND TOILET FACILITIES ACT

TERMS: On any farm where 10 or fewer seasonal workers labor in a field that is unreasonably far from alternative facilities, the farm operator must provide drinking water, toilets and handwashing facilities for the workers.

Drinking Water — Except when cool, sanitary water facilities are otherwise available to the workers within a 500-foot travel distance of the working area, the farm operator must furnish the workers with an adequate supply of fresh, cool, sanitary water in the working area. Water must be provided in portable containers capable of being tightly closed and equipped with a tap. Water must be dispensed in single-use drinking cups or by fountains; common drinking cups or dippers are not permitted.

Toilet Facilities — Except when toilet facilities are otherwise available within a 500-foot travel distance or a 5-minute walk from the working area, the farm operator must provide clean, adequate toilet facilities in the working area. There must be separate toilets for men and women, in a ratio of one toilet for every 20 workers (or fraction thereof) of each sex. The facilities must be equipped with an adequate supply of toilet paper, and must be maintained in clean, sanitary condition and in good working order. Doors must be lockable from the inside.

Handwashing Facilities — Except when handwashing facilities and nearby toilets are otherwise available to the workers within a 500-foot travel distance of the working area, there must be adequate handwashing facilities provided for the workers in the working area, close to the required toilet facilities. The washing facilities must provide sanitary water, soap or some other cleansing agent, and individual towels.

ENFORCEMENT: *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

HOUSING

● SEASONAL FARM LABOR ACT

TERMS: The Seasonal Farm Labor Act regulates the construction, maintenance and operation of farm labor camps in New Jersey, briefly defined as one or more buildings, structures, tents or vehicles used as living quarters by migrant, seasonal or temporary workers in connection with any work or workplace.

Certificate of Compliance — No farm labor camp may be maintained or occupied without a certificate of compliance issued by the state. The owner or operator of a camp must generally apply for a certificate no later than 60 days before it opens for the year, and the state enforcement agency has 45 days to conduct an inspection of the facility.

If no inspection has been made within that time, the camp may be opened but may be closed if later inspection reveals that it does not meet state standards. Likewise, whenever the state agency finds that a camp for which a certificate has been issued no longer meets the standards, the certificate may be revoked.

Camp Standards — The law prescribes specific requirements which farm labor camps must comply with to qualify for occupancy. Among many other factors considered in determining if a housing facility meets the standards are these:

- The water supply
- Toilet facilities
- Bathing facilities
- Sleeping accommodations
- Food preparation and eating facilities
- Trash disposal equipment and procedures

ENFORCEMENT: *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004).*

SPECIAL NOTE: In a 1978 case, a state court ruled that the housing provisions of the Seasonal Farm Labor Act cannot be enforced, at least in part, because the federal Occupational Safety and Health Act takes away the state's authority to enforce rules where similar federal rules already exist (*see entry, U.S. — Housing*) and the state does not have an OSHA-approved job safety and health program.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Farm operators and other agricultural employers who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period in the current or preceding year, or employed at least 10 farmworkers for some part of a day in each of 20 different weeks this year or last, are required to pay taxes to the state unemployment compensation fund.

At the same time, farmworkers who are employed by any such agricultural operation are generally required to contribute 0.3825 percent of their wages to the same fund. The workers' contributions are withheld from their earnings by the employer, who must forward the deductions to the state agency along with the employer's share. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits.

ENFORCEMENT: *Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460).* Unemployment claims may be filed online, at njsuccess.dol.state.nj.us/njsuccess/html/fileAclaimHomeContd.htm.

● WORKERS' COMPENSATION LAW

TERMS: Whenever a worker is accidentally injured on the job, or is disabled by an occupational disease, the employer is legally responsible for paying the related medical expenses, as well as cash disability benefits to compensate for lost earnings. Similar benefits are payable to the worker's dependents if the injury or disease leads to the worker's death. Most employers meet their responsibility under this law by purchasing workers' compensation insurance.

ENFORCEMENT: *Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515).* In general, a claim for compensation is not payable unless the employer is notified of the injury within 14 days after it happens. If there is a disagreement over a claim for benefits, the worker or the worker's dependents must submit the claim to the Division.

Enforcement of a claim against an employer who does not have workers' compensation coverage requires legal action by the worker in the workers' compensation court, using a private attorney or public legal service provider. A worker in that situation may apply for benefits through the Uninsured Employer's Fund.

SPECIAL NOTE: It is illegal for an employer to fire or discriminate in any other manner against a worker because the worker has made or attempted to make a claim for workers' compensation benefits.

● TEMPORARY DISABILITY BENEFITS LAW

TERMS: The Temporary Disability Benefits Law provides for the payment of cash benefits to disabled workers, to replace earnings lost due to an accident or injury that is not employment-related. Benefits may be provided through the state disability benefits fund or a state-approved private plan.

State Disability Benefit Plan —

Contributions — A farm employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 farmworkers for some part of a day in each of 20 different weeks this year or last, is generally required to contribute 0.5 percent of the wages paid to his or her workers to the state disability benefits fund. At the same time, farmworkers who are employed by any such agricultural operation generally must contribute 0.28 percent of their own earnings to the same fund. The workers' contributions are withheld from their earnings by the employer, who must forward the deductions to the state agency along with the employer's share.

Benefits — A farmworker who (1) became totally disabled while working for a subject employer, or less than 2 weeks after leaving such a job, (2) is not eligible for workers' compensation, (3) is not covered by a private disability benefit plan, as described below, (4) is under the care of a licensed doctor who can certify the disability, and (5) has earned the necessary qualifying wages and meets the program's other qualifications, may be eligible for temporary disability benefits. The amount of weekly benefits is generally equal to a certain percentage of the worker's average weekly earnings over the 52 weeks immediately preceding the disability.

Private Plans —

Employer Options — Instead of participating in the state disability program, a covered employer (as defined in brief above) may establish a private plan using a commercial insurance provider or a self-insurance arrangement. All private benefit plans must be approved by the state agency.

Worker Contributions — An employer may cover part of the cost of providing benefits by requiring workers to pay contributions to the plan, but a majority of the employer's workforce must agree to that before the plan is approved by the state agency. Furthermore, a private plan may not force a worker to pay more than the level of contributions that workers pay under the state program.

Benefits — The eligibility requirements for benefits under a private plan must be no more restrictive than the requirements for benefits from the state disability benefits fund, and the amount of benefits from a private plan must equal or exceed those payable under the state program.

ENFORCEMENT: *Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460).* A worker who is disabled by an injury or illness not connected with employment, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at lwd.dol.state.nj.us/labor/tdi/tdiindex.html#TDI2.

Any dispute over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

● TEMPORARY DISABILITY BENEFITS LAW (FAMILY LEAVE INSURANCE)

TERMS: In addition to replacing earnings lost on account of non-work-related disabilities, the Temporary Disability Benefits Law also authorizes cash benefits for up to 6 weeks to allow workers to provide care to a seriously ill family member, or to bond with a newborn or newly adopted child.

Conditions and Limitations — Family Leave benefits are subject to the following conditions, among many others:

Care Leave — Leave to care for a family member with a serious health condition applies only to a worker's spouse, domestic or civil union partner, parent or child, and the health condition must be verified by a licensed health care provider. Care leave may be taken for 6 consecutive or non-consecutive weeks, or 42 non-consecutive days, during the 12-month period immediately preceding the claim.

Bonding Leave — Paid family leave for up to 6 weeks may also be taken to bond with (1) a newborn child during the 12 months after the child's birth, or (2) an adopted child during the 12 months after the child's placement. This type of leave generally must be for a period of more than 7 consecutive days. At the time the claim is made, the worker must provide certain documentation, such as the child's birth certificate or adoption records.

Earnings Eligibility — To qualify for Family Leave Insurance benefits, a worker generally must have earned a certain amount of qualifying wages working for one or more farm employers who either (1) paid total agricultural wages of \$20,000 or more during any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more agricultural workers for any part of a day in 20 or more different calendar weeks this year or last.

Amount of Benefits — The amount of weekly benefits is generally equal to a certain percentage of the worker's average weekly earnings over the 52 weeks immediately before the leave period.

ENFORCEMENT: *Division of Unemployment and Temporary Disability Insurance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2460).* A worker who takes family leave, and whose current or most recent employer does not administer a private disability plan, may download an application for state disability benefits or file a claim online, at lwd.dol.state.nj.us/labor/fli/fliindex.html#FLI2.

Any dispute that arises over a worker's eligibility for or payment of benefits from a private plan may be referred to the Department for investigation and resolution.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CREW LEADER LAW

TERMS:

Crew Leader Registration — Except for farmers and food processing plant operators who do so for their own operations, it is generally illegal for any person to recruit, supply or hire farm or food processing workers, or transport and direct any part of their work, for a fee or profit, unless the person has a valid certificate of registration issued by the state. Likewise, it is unlawful for a farm operator to use the services of a crew leader who does not have a valid registration certificate.

Information to Workers — At the time a farmworker is recruited, the crew leader must inform the worker regarding the location of employment, the crops and operations involved, the transportation, housing and insurance to be provided, the wage rates to be paid, and the fees the worker will have to pay for the crew leader's services. The crew leader is required to post a notice in plain sight summarizing this information in Spanish and English, and showing the name and address of the crew leader, the name and address of the farm operator where the work is to be performed, the expected duration of the job, and a schedule of the minimum pay for each hour of employment. A written copy of this information must also be offered to each worker, or to the head of each farmworker household under the crew leader's supervision.

Wage Payments — Whenever crew leaders are involved in the payment or distribution of wages, they are required to pay each worker, in full, on the same property where the work was performed and as soon as the work period is over.

ENFORCEMENT: *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Anyone who has suffered any such retaliation should consult with a private attorney or public legal services program about possible legal action in civil court.

LABOR RELATIONS AND UNION REPRESENTATION

● STRIKEBREAKERS ACT

TERMS: It is illegal for a person or firm to bring any worker into New Jersey from outside the state, or to transport anyone within the state, with the aim of replacing workers who are lawfully on strike, interfering with workers who are lawfully picketing an employer, or interfering with the right of workers to form, join or assist labor organizations or negotiate with their employers.

ENFORCEMENT: The Strikebreakers Act is enforced by public prosecuting attorneys in criminal court.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL ACT OF 1971

TERMS:

Pesticide Applicator Businesses — No one may engage in the business of applying pesticides for pay without first licensing the business with the state. Among other requirements, a pesticide application business must have liability insurance of at least \$300,000 covering bodily injury and property damage, or obtain a bond of from \$100,000 to \$300,000. For each category of pesticide application it performs, the business must employ at least one commercial pesticide applicator who is certified and registered in that category.

Commercial Pesticide Applicators — In general, no one (other than a private applicator, discussed below) may use or supervise the use of any pesticide in any category of use for which he or she has not been certified and licensed by the state. In order to become certified, an applicant is required to pass both a general examination and an examination specific to the type of pesticide services the applicant will perform. Within 12 months after certification, a commercial applicator must apply for a license, which is renewable annually.

Private Pesticide Applicators — Agricultural producers who apply or supervise the application of restricted-use pesticides to their own crops, as well as the employees of such producers who apply restricted-use pesticides to their employer's crops, must be certified and licensed as private pesticide applicators. Certification requires successful completion of two separate examinations, both designed to test the applicant's knowledge and understanding of pesticide safety, laws and regulations, pesticide labeling, crops and pests, pesticide poisoning symptoms, and related subjects. Within 12 months after certification, private applicators are required to apply for a license.

Commercial Pesticide Operators — Unless the person is certified and licensed as a commercial or private applicator or is working in the actual presence of such an applicator, no person may apply pesticides under the supervision of a commercial or private applicator unless he or she has received annual training and is licensed as a pesticide operator.

Storage and Disposal of Pesticides — Restricted-use pesticides and contaminated containers generally must be stored in a secure, locked enclosure, plainly marked with warnings. No one may dispose of pesticides, pesticide containers or pesticide equipment in any way which could harm people or the environment, or in a manner prohibited by state or federal law.

Container Labeling — It is illegal to store, transport or possess any pesticide if part or all of its labeling is missing or unreadable. Pesticides may not be placed or kept in any container commonly used for food, beverages or household products.

Application and Safety Equipment — Pesticide application equipment must be properly maintained and calibrated. Anyone having employees who handle or apply pesticides must make necessary or appropriate safety equipment available to the workers. Safety equipment must be in good working order, and the workers must be trained in its proper operation.

Prior Notification of Pesticide Applications — In general, applying pesticides to an area greater than 3 acres is illegal unless prior notice of the proposed treatment has been given to persons living in the vicinity of the target site. Notification must be given in at least 2 newspapers, no earlier than 30 days and no later than 7 days before the proposed date of treatment.

Prohibited Acts — Among many other unlawful acts, it is illegal for anyone (1) to use a pesticide in a manner contrary to the product's labeling or to state or federal restrictions, (2) to handle or apply pesticides in any way that causes or could cause harm to people, property or the environment, (3) to apply pesticides without taking reasonable care to minimize exposure and assure the safety of people, (4) to apply pesticides to a target site in a way or under conditions that could contaminate a non-targeted site due to drift, or (5) to apply pesticides to agricultural lands when persons other than those involved in the application are in the target area without protective clothing or equipment.

ENFORCEMENT: *Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).*

● PESTICIDE CONTROL ACT OF 1971 (AERIAL APPLICATION)

TERMS: Equipment used in the application of pesticides from the air must be properly adjusted, free of leaks, and equipped with a positive shut-off system. Spray equipment must be thoroughly rinsed before applying a different pesticide.

Among other restrictions, pesticides applied in liquid or dust form from an aircraft must generally be released within 15 feet above the crop. Pesticide granules or pellets generally may not be released from an altitude any higher than 40 feet above the target.

As a rule, no pesticide may be applied by aircraft any closer than 100 feet from a private residence without the written consent of the occupant, or within 300 feet of an occupied school, hospital, nursing home, or any building used for business, social or religious purposes.

ENFORCEMENT: *Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).*

● PESTICIDE CONTROL ACT OF 1971 (AGRICULTURAL WORKER PROTECTION)

TERMS: New Jersey has adopted pesticide-related worker safety rules, key provisions of which are summarized below.

Entry Restrictions — After an application of any pesticide to an agricultural field or in an agricultural workplace, the farm operator generally may not allow or direct any worker to enter or remain in the treated area before the restricted-entry interval specified on the pesticide label has expired.

Warnings to Workers — Unless an agricultural employer is certain that no worker will enter, work in, remain in, or pass through the treated area on foot during an application of a pesticide and during its restricted-entry interval, the employer is required to notify workers of any pesticide application on the farm. If the pesticide label requires that the notification be posted, the warning signs must (1) include the words "Danger," "Pesticides," "and "Keep Out," in English and the native language understood by the workers, (2) be posted no sooner than 24 hours before the scheduled application, at locations visible from all points of worker entry or at the corners of the treatment area, and (3) be removed within 3 days after the expiration of the restricted-entry period. Among other required information, the posted warnings must include the name of the crop to be treated, the name of the pesticide to be used, the safe re-entry time, and the date and location of the application. A map of the farm clearly identifying the fields to be treated must be posted at the same location.

If the label requires oral warnings, they must generally be given before the application starts, in language easily understood by the worker, and include (1) the location and description of the treated area, (2) the time during which entry is restricted, and (3) instructions not to enter the treated area until the re-entry period has expired.

Pesticide Safety Training —

Orientation — On a worker's first day on the job, or at least one day before being assigned to a field that has been treated within the past 30 days, the employer must assure that the worker has received a worker orientation at least once during each year of employment. The orientation must cover topics including, among others, (1) re-entry, and how workers are informed about re-entry, (2) the location of handwashing facilities, clean clothes and protective clothing, (3) where to obtain immediate decontamination, (4) a review of required bulletin board information, and (5) the availability of pesticide fact sheets.

Safety Information — Before a farmworker enters an area where a regulated pesticide has been applied within the last 30 days, or where a restricted-entry interval has been in effect, the employer must assure that the worker has received certain pesticide safety information, including (1) how pesticide exposure can occur, and (2) how pesticides can be prevented from entering the body. The information may be in oral or written form, but it must be presented in a manner that the worker can understand.

Training — Before the 6th day that a worker enters an area where, within the last 30 days, a regulated pesticide has been applied or a restricted-entry interval has been in effect, the employer must assure that the worker has been trained. Training must be provided by an individual who meets state qualifications and must be presented in a way that the worker can understand. Among other requirements, the training must include (1) how pesticides may be encountered during work activities, (2) the hazards of pesticide exposure, (3) the routes through which pesticides can enter the body, (4) the symptoms of pesticide poisoning, (5) emergency first aid for pesticide injuries and poisoning, (6) how to obtain emergency medical care, (7) decontamination procedures, (8) the hazards of pesticide residues on clothing, (9) warnings about taking pesticides or pesticide containers home, and (10) worker rights under state and federal laws.

Decontamination Facilities — If an agricultural worker performs an activity in an area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect, and the worker contacts anything that has been treated with the pesticide, the employer is required to provide a decontamination site for washing off pesticide residues. The decontamination site must be reasonably close to where workers are working, located at the same site as the required portable toilets, and not in an area where pesticides are being applied. Decontamination facilities must include enough clean, cool water for routine washing and emergency eye-flushing, along with soap and single-use towels.

Emergency Assistance — If there is reason to believe that a farmworker employed at an agricultural establishment has been poisoned or injured by exposure to pesticides used on that establishment, the employer must make available prompt transportation of the worker from the farm or labor camp to an appropriate medical facility. Likewise, the employer must provide the worker, or to the medical personnel treating the worker, all relevant and available information about the pesticide product involved and the circumstances of the victim's exposure to it.

ENFORCEMENT: *Bureau of Pesticide Compliance and Enforcement, Division of Waste Enforcement, Pesticides and Release Prevention, New Jersey Department of Environmental Protection, Trenton, New Jersey 08625 (609-984-6568).*

TRANSPORTATION

● FARM LABOR CREW LEADER LAW (*WORKER TRANSPORTATION*)

TERMS: A farm labor crew leader who transports migrant or seasonal farmworkers must provide the state with proof of compliance with state motor vehicle requirements that apply to the transportation of such workers. An otherwise qualified crew leader who submits a signed application affirming that he or she will not provide farmworkers with transportation may be granted a registration certificate inscribed with the words "Not Authorized To Transport."

At the time each worker is recruited, the crew leader must explain the transportation services, if any, the crew leader intends to provide in connection with the worker's employment.

ENFORCEMENT: *Agricultural Compliance Section, Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-984-3004).*

In addition to reporting it to the Department, a migrant or seasonal farmworker affected by a violation of these provisions may take legal action against the crew leader in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: A crew leader may not fire, discipline or discriminate in any manner against a migrant or seasonal farmworker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded under state or federal law. The anti-retaliation protection is enforceable in civil court, using a private attorney or public legal service provider.

WAGES AND HOURS

● NEW JERSEY STATE WAGE AND HOUR LAW

TERMS: Like most other employees, farmworkers in New Jersey who are 18 years of age and older are generally entitled to at least \$8.44 for every hour on the job. Workers paid on a piecework basis must receive for their labor no less than the minimum hourly wage rate multiplied by the total number of hours worked.

The state minimum wage rate is adjusted each year, to reflect changes in the cost of living.

ENFORCEMENT: *Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305).*

As an alternative to filing a claim with the state agency, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Anyone who has suffered any such retaliation should consult with a private attorney or public legal services program about possible legal action in civil court.

● WAGE PAYMENT LAWS

TERMS:

Pay Periods and Paydays — As a rule, farm operators and all other employers must pay workers' wages at least twice each month, on regular paydays designated in advance by the employer. The end of the pay period for which payment is made on a regular payday may not be more than 10 working days before the payday.

Method of Payment — Wages must be paid (1) in lawful U.S. money, (2) by check, provided suitable arrangements are made for workers to cash their checks conveniently and for the full amount for which the checks are drawn, or (3) by direct deposit to a federally- or state-regulated financial institution.

Final Pay — Whenever an employer fires or lays off a worker, or when a worker quits or leaves the job for any reason, the employer must pay final wages no later than the next regular payday.

Wage Withholding — It is illegal for an employer to withhold any part of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the amounts withheld are for contributions authorized in writing for an employee benefit or savings plan or for other lawful purposes.

Disclosures — At the time of hiring, employers must notify their workers concerning the rate of pay and the schedule of paydays, and must notify the workers in advance of any change in pay rates or paydays. Employers are required to furnish each worker with a statement of any deductions made from the worker's pay for each pay period in which such deductions are made.

ENFORCEMENT: *Division of Wage and Hour Compliance, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2305).*

● NEW JERSEY GROSS INCOME TAX ACT

TERMS: Farm operators and other agricultural employers who (1) paid cash wages of \$20,000 or more for agricultural labor during any calendar quarter of the current or preceding calendar year, or (2) employed at least 10 workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to withhold state income tax from their employees' wages. Income tax withheld from a worker's pay must be forwarded to the state for credit against the worker's income tax liability.

By February 15 of the following year, or within 30 days of payment of final wages, the employer must furnish the worker with a written statement showing the worker's total earnings for the year and the amount of state income tax withheld.

ENFORCEMENT: *Division of Taxation, New Jersey Department of the Treasury, Trenton, New Jersey 08695 (609-292-6400).*

SPECIAL NOTE: Even when a farm employer is not required to deduct state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

New Mexico

CHILD LABOR

● CHILD LABOR ACT

TERMS:

Minimum Age — With few exceptions, no child under the age of 14 in New Mexico may be employed or permitted to work in any occupation.

Work Permits — Children 14 and 15 years of age may generally not be employed unless they obtain a work permit from the state labor department and present it to the prospective employer. The employer is required to keep the permit on file and post conspicuously a list of all children employed at that location.

Hour Limitations — Except for participants in work experience and career exploration programs, 14- and 15-year-olds are prohibited from working during school hours and may not work for more than 3 hours a day on a school day, or for more than 18 hours during a school week. When school is not in session, work is limited to 8 hours in any one day and 40 hours during any one week. Employment is permitted only between the hours of 7:00 a.m. and 7:00 p.m. during the school year, and between 7:00 a.m. and 9:00 p.m. outside the school year.

Hazardous Occupations — Minors may not be employed in certain occupations considered hazardous. In agriculture, this would include work involving belted moving machinery, which is not authorized for anyone under 16.

ENFORCEMENT: *Labor Relations Division, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6817).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With some exceptions, every child who has reached the age of 5 prior to September 1 in a given school year, but who is not yet 18 and has not graduated from high school, must attend a public school, charter or private school, home school, or state institution for the entire school year. The parent or other person having custody and control of the child is responsible for the child's school attendance.

ENFORCEMENT: These provisions are enforced by the public school boards and by governing authorities of the state's charter and private schools.

CIVIL RIGHTS

● HUMAN RIGHTS ACT

TERMS: Under most circumstances, it is illegal for any employer who has 4 or more workers to refuse to hire a job applicant, to fire a worker, or to discriminate against an otherwise qualified worker in matters related to wages, benefits or other job conditions, because of the applicant's or worker's race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, or serious medical condition, unless there are valid job-related reasons for such a distinction.

Similar acts (1) committed by an employer with 50 or more employees and against a worker because of his or her marital status, and (2) committed by an employer with 15 or more employees and against a worker because of the worker's sexual orientation or gender identity, are also generally illegal.

Employment agencies and labor organizations are prohibited from engaging in similar discriminatory practices.

ENFORCEMENT: *Investigation and Compliance Unit, Human Rights Bureau, New Mexico Department of Workforce Solutions, Santa Fe, New Mexico 87505 (505-827-6856; toll-free 800-566-9471).* Anyone adversely affected by an unlawful employment practice may file a complaint with the enforcement agency within 300 days after the alleged act was committed.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● FAIR PAY FOR WOMEN ACT

TERMS: Employers with 4 or more employees are prohibited from discriminating on the basis of sex, by paying wages to workers of one sex at a rate less than the rate the employer pays to workers of the opposite sex in the same workplace for equal work, on jobs requiring equal skill, effort and responsibility and that are performed under similar working conditions. The only exceptions are where payment is based on a seniority system, a merit system, or a system that measures earnings by quantity or quality of production.

ENFORCEMENT: A worker adversely affected by an alleged violation of this law may take action against the employer involved in civil court, using a private attorney or public legal service provider. A complaint in civil court must be filed no later than 2 years from the last date of the worker's employment.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

HEALTH AND SAFETY

● OCCUPATIONAL HEALTH AND SAFETY ACT

TERMS: In general, farm operators and most other employers in New Mexico are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state environmental improvement board has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● OCCUPATIONAL HEALTH AND SAFETY ACT (*FIELD SANITATION*)

TERMS: Under New Mexico's occupational health and safety law, the state environmental improvement board has adopted regulations requiring agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are essentially the same as those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to any agricultural establishment where workers are engaged on any given day in hand-labor operations in the field.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● OCCUPATIONAL HEALTH AND SAFETY ACT; MISCELLANEOUS LABOR LAWS (*AGRICULTURAL TOOLS*)

TERMS: On any farm or at any agricultural establishment where workers are employed on any given day in hand-labor operations in the field, the use of a hoe, knife or fork less than 4 feet long for weeding and thinning crops is prohibited.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● OCCUPATIONAL HEALTH AND SAFETY ACT (*EMERGENCY MEDICAL CARE*)

TERMS: Under New Mexico's occupational health and safety law, the state environmental improvement board has adopted regulations related to emergency medical care for agricultural workers in the field.

First Aid — Where there are no clinic or hospital facilities reasonably close to an agricultural workplace in the field, one or more workers or other individuals must be adequately trained to provide first aid. Adequate first aid supplies must be readily available to the workers.

Emergency Washing Facilities — Where a worker or other person in the agricultural work area may be exposed to corrosive materials (including agricultural chemicals, among other substances), the employer must provide suitable facilities for immediate flushing or drenching of the eyes and body in the event of an emergency.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

HOUSING

● OCCUPATIONAL HEALTH AND SAFETY ACT (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational health and safety law, the state environmental improvement board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. New Mexico's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor in any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for any part of a day in 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Bureau, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (toll-free 877-664-6984).* Unemployment compensation claims may be filed by phone, at 877-664-6984, or online at www.jobs.state.nm.us.

● WORKERS' COMPENSATION ACT

TERMS:

Coverage in General — The Workers' Compensation Act requires most New Mexico employers who have 3 or more workers to pay compensation to any such worker who is injured in a job-related accident, or to compensate the dependents of such a worker whose death stems from a job-related accident. Compensation includes the payment of medical costs resulting from the worker's injury or death, and cash disability or death benefits to replace lost wages.

Employers subject to this law must either obtain workers' compensation insurance or qualify as a self-insurer.

Coverage of Farm and Ranch Workers — Under a June 2016 state supreme court ruling, workers' compensation claims filed by farm and ranch workers are covered to the same extent as claims by other covered employees.

ENFORCEMENT: *New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125 (505-841-6000; toll-free 800-255-7965).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL ACT

TERMS:

Licensing and Certification of Applicators —

Private Agricultural Applicators — No farm operator or other private applicator may use restricted pesticides in agricultural operations without first being certified by the state. Among other requirements, certification requires passing a test to demonstrate basic knowledge of pesticide product labeling and ability to use and handle pesticides safely.

Commercial Applicators and Operators — It is unlawful for anyone to engage in the business of applying pesticides to someone else's land without a commercial pesticide applicator license issued by the state. Likewise, employees of commercial applicators must be licensed as pesticide operators. Licensing in both categories requires completion of an examination to demonstrate competence to perform the respective pesticide use functions safely.

Insurance and Bonding — The state may not grant a commercial pesticide applicator license until the applicant has provided proof of a liability insurance policy or a surety bond protecting persons who may suffer legal damages as a result of the licensee's operations. Current regulations require minimum liability coverage of \$50,000 for bodily injury and property damage (\$100,000 for aerial pesticide applicators) or a surety bond of \$100,000.

Inspection of Equipment — Equipment used for commercial application of pesticides must be inspected each year by the state, and any piece of equipment which fails inspection may not be used until it has passed re-inspection.

Storage and Disposal of Pesticides — Pesticides and used pesticide containers must be stored and disposed of in a way that will not result in injury to humans, vegetation, crops, livestock, wildlife or beneficial insects, or the pollution of any waterway.

Prohibited Practices — Among other acts defined as violations of the Pesticide Control Act and which constitute grounds for denial, suspension or revocation of a license or permit are these:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or failing to keep required records or to make required reports.
- (4) Applying pesticides without the proper certification or license.

ENFORCEMENT: *Pesticide Compliance, New Mexico Department of Agriculture, Las Cruces, New Mexico 88003 (575-646-2733).* A worker who is injured or suffers any other loss involving pesticides should file a report with the Department as soon as possible, but in no case later than 60 days from the time the loss or damage becomes known to the worker.

● OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational health and safety law, the state environmental improvement board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are nearly identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).* A worker or worker representative may file a written complaint with the Department concerning a particular workplace hazard or an alleged violation of the Act or its regulations.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

TERMS: Under the health and safety law, the state environmental improvement board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. New Mexico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Health and Safety Bureau, New Mexico Environment Department, Santa Fe, New Mexico 87502 (505-476-8711; toll-free 877-610-6742).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

WAGES AND HOURS

● MINIMUM WAGE ACT

TERMS: In general, farmworkers employed on a farm or other establishment that used more than 500 worker-days of agricultural labor during any calendar quarter in the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are entitled to the state minimum wage of \$7.50 an hour.

Employers who provide food, supplies, housing or utilities to a worker may count the reasonable value of those items as wages in meeting their minimum wage obligation.

Exceptions — The minimum wage *does not apply* to any of the following:

- (1) Workers who are employed as hand-harvest laborers paid on a piecework basis in a crop activity traditionally considered a piecework operation in the local region.
- (2) Workers who commute daily from home to the worksite.
- (3) Workers who were employed in agriculture for less than 13 weeks during the preceding year.
- (4) Workers 16 years of age or younger who are employed as hand-harvest workers in traditionally piecework operations, employed on the same farm as their parents or guardian, and paid the same piece rate as adult workers on the same farm.

ENFORCEMENT: *Wage and Hour Section, New Mexico Department of Workforce Solutions, Albuquerque, New Mexico 87103 (505-841-4400).*

Instead of filing a claim with the Department, a worker may recover wages, damages, court costs and reasonable attorney's fees in a private civil suit against the employer, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WITHHOLDING TAX ACT

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the last day of February, the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld.

ENFORCEMENT: *Audit and Compliance Division, New Mexico Department of Taxation and Revenue, Santa Fe, New Mexico 87502 (505-827-0940).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

New York

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Minimum Age — In general, no one under the age of 14 may be employed in agriculture or any other industry in New York.

Exception — Children 12 and 13 years of age may be employed in the hand harvest of berries, fruits and vegetables, provided (1) they obtain a farm work permit from the local school district, and (2) they are accompanied on the job by a parent, or present the employer with written permission from their parent or guardian. Under these conditions, 12- and 13-year-old youth are allowed to work for up to 4 hours a day, between the hours of 9:00 a.m. and 4:00 p.m. (between 7:00 a.m. and 7:00 p.m. from June 21 to Labor Day), and at times when school is not in session.

Children Age 14 and 15 — On days and during hours when not required to be in school, a child 14 or 15 years of age may be employed in an agricultural job only if the child has a farm work permit issued by the school district and signed by the employer. There are no restrictions on the maximum hours and time of day when 14- and 15-year-olds may work at farm labor.

Children Age 16 and 17 — As long as school attendance is not required, children 16 and 17 years of age may be employed in agricultural occupations on a farm without a work permit and with no limitations on hours.

Hazardous Occupations — Among the farm-related occupations the law deems hazardous and thus prohibited to minors of any age are (1) adjusting belt-driven machinery, and (2) work as a helper on a motor vehicle.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

● COMPULSORY EDUCATION LAW

TERMS: With very limited exceptions, every child from 6 to 16 years of age living in any school district in the state must attend a public school or receive substantially equivalent full-time instruction. The parent or other person having control over such a child is responsible for the child's attendance.

In general, no child may be employed during the hours when the child is required to be in school under this law. Employment of a minor under 16 in work on a farm is prohibited at any other time as well, unless the child has been issued an employment certificate or farm work permit by the local school district. To obtain a farm work permit, the minor must present evidence of age, the written permission of the minor's parent or guardian, and a certificate of physical fitness.

ENFORCEMENT: These provisions are enforced by the local school districts, and by the *New York State Education Department, Albany, New York 12234 (518-474-5844).*

● WORKERS' COMPENSATION LAW (ILLEGALLY EMPLOYED MINORS)

TERMS: A worker under the age of 18 who is injured while employed on a farm or in any other establishment in violation of the state child labor laws is generally entitled to *double* the amount of workers' compensation benefits normally payable. The Workers' Compensation Law applies to farm employers only if they paid at least \$1,200 for agricultural labor in the previous calendar year.

ENFORCEMENT: *New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830).* Any dispute between a worker and an employer (or between a worker and an employer's insurance company) regarding eligibility for or the amount of workers' compensation benefits should be brought to the attention of the Board.

CIVIL RIGHTS

● HUMAN RIGHTS LAW

TERMS: It is unlawful for an employer of 4 or more workers in the state, because of a person's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or status as a victim of domestic violence, (1) to refuse to hire the person, (2) to fire the person, or (3) to discriminate against the person with regard to wages or the terms or conditions of employment.

The use of any job application, or any employment notice or advertisement, which suggests a preference or discrimination with respect to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status, unless such distinction is based on a bona fide occupational qualification, is also generally prohibited.

In these provisions of the law, the term "age" applies to and is intended to protect workers 18 years of age and older.

ENFORCEMENT: *Division of Human Rights, New York Executive Department, Bronx, New York 10458 (718-741-8402).* At any time within one year after an act of illegal employment discrimination, a person affected by the act may file a complaint with the Division of Human Rights.

As an alternative to filing a complaint with the Division, or if a complaint filed with the Division has been dismissed on certain grounds, the law gives workers the right to sue in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint, participated in an investigation, or opposed any practice forbidden under these provisions of the law.

● WAGE PAYMENT LAWS (EQUAL PAY)

TERMS: With only limited exceptions, no farmworker or other employee may be paid a wage less than that at which a worker of the opposite sex in the same establishment is paid for equal work, on a job requiring equal skill, effort and responsibility and performed under similar working conditions.

It is generally not considered discriminatory, however, for an employer to pay different wage rates if they are based on a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or any other factor other than sex.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to collect wages unpaid because of illegal sex discrimination, using a private attorney or a public legal services program. Such a suit may not be filed any later than 6 years after the unpaid wages were due.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint, participated in an investigation, or opposed any practice forbidden under these provisions of the law. A worker subjected to any such retaliation may file a complaint with the state Department of Labor.

● GENERAL LABOR LAWS (RETALIATORY ACTION BY EMPLOYERS)

TERMS: It is illegal for an employer to fire, discipline or otherwise retaliate against a worker because the worker reports a violation of a law or regulation to a supervisor or to a public agency or official, when the violation poses serious danger to public health or safety.

Likewise, retaliation against a worker for participating in an official investigation or hearing about an employer's violation of a law or regulation, or for refusing to participate in an activity or practice that violates a law or regulation, is also illegal.

Importantly, the protection against retaliation applies only if the worker brings the unlawful activity to the attention of a supervisor, and gives the employer a reasonable opportunity to stop the unlawful activity or take other corrective action.

ENFORCEMENT: A worker who is fired or disciplined in any other way in violation of this law may take legal action against the employer in court, using a private attorney or public legal service provider. Action in court generally must be filed no later than one year after the retaliation occurred.

HEALTH AND SAFETY

● GENERAL LABOR LAWS (*DRINKING WATER FOR FARM LABORERS*)

TERMS: Farm operators and food processors who employ or use more than 4 paid farmworkers or food processing workers must provide the workers with safe drinking water on the job, at the employer's expense. Water may be furnished in a portable container, but must be accessible to each location where the employees are at work.

The obligation to provide drinking water rests with the grower or processor, regardless of whether or not the workers are supplied or supervised by a farm labor contractor.

ENFORCEMENT: *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

● GENERAL LABOR LAWS (*FIELD SANITATION FOR FARM LABORERS*)

TERMS: Every grower or food processor who employs or uses paid farm hand workers, farm field workers or farm food processors must provide or make available to the workers toilet and handwashing facilities, including transportation to such facilities. The toilet and handwashing facilities must be located near one another, within a 1/4-mile walk of the workers (or at the closest point where vehicles can still enter, if the terrain makes compliance with the 1/4-mile requirement impracticable).

Where 5 or more workers are employed in one location at the same time, at least one toilet and handwashing unit must be provided at the location for every 20 workers or fraction thereof. If there are more than 20 workers in one location at the same time and at least half the workers are women, the toilets must be separated by sex and labeled as such with appropriate signs.

ENFORCEMENT: *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

HOUSING

● PUBLIC HEALTH LAW (*LABOR CAMPS*)

TERMS:

Permits — No one may use any property to house 5 or more people, or allow any property under their control to be occupied by 5 or more people, one or more of whom are employed as laborers in farm activities, without first obtaining a migrant labor camp permit from the state. Application for a permit must be made each year, at least 30 days before the camp's first day of operation or occupancy.

Minimum Standards — A migrant labor camp permit may not be issued unless the housing facility meets the detailed sanitation requirements contained in the state environmental health rules. Among other factors considered in determining if a housing facility meets the standards are these:

- The condition of the camp site
- The condition of camp structures
- The water supply
- Lighting and ventilation
- Heating equipment
- Toilet facilities
- Cooking and eating facilities
- Sleeping accommodations
- Bathing facilities
- Laundry facilities
- Trash storage and collection facilities
- Fire safety conditions and equipment

Medical Facilities — The camp operator must make arrangements for access to adequate medical care at or readily available to the camp. A functional first-aid kit must be kept in an accessible location on the grounds.

Hazardous Materials — Except for those needed for current household use, no flammable or volatile materials may be stored in or adjacent to rooms used for living purposes. Agricultural pesticides and toxic chemicals may not be stored in the housing area.

ENFORCEMENT: *Bureau of Community Environmental Health and Food Protection, New York State Department of Health, Albany, New York 12237 (518-402-7600).* Anyone with knowledge of a possible violation of the state labor camp regulations may file a complaint with the Department.

County health commissioners and local health boards may assist in the enforcement of these provisions.

● GENERAL LABOR LAWS (*FARM LABOR CAMP COMMISSARIES*)

TERMS: It is illegal for anyone to sell food, or sell or rent goods of any kind, at or in connection with a farm labor camp without first obtaining a permit to do so from the state. The permit must be displayed in plain sight at the place where the activities are conducted. A permit-holder must also keep plainly posted at the site the current prices of all goods offered, including meals. Prices charged may not exceed the posted prices.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT INSURANCE LAW

TERMS: Farm employers are required to pay state unemployment insurance taxes to the credit of their agricultural workers if they (1) have paid cash agricultural wages amounting to \$20,000 or more in a 3-month period (calendar quarter) in the current or preceding year, or (2) have employed 10 or more agricultural workers on at least one day in each of 20 different weeks in the current or preceding year, or (3) are required to pay federal unemployment insurance taxes with respect to agricultural labor. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. Benefits currently range from \$100 to \$430 a week, depending on the worker's past earnings.

ENFORCEMENT: *Unemployment Insurance Division, New York State Department of Labor, Albany, New York 12240 (518-457-5713).* Unemployment claims may be filed by phone, toll-free at 888-209-8124, or online at <https://applications.labor.ny.gov/Individual/>.

● WORKERS' COMPENSATION LAW

TERMS: In general, every farm operator who paid at least \$1,200 in cash wages for farm labor in the preceding calendar year must have workers' compensation insurance or equivalent coverage protecting each agricultural worker employed during any part of the 12 consecutive months beginning April 1 of the current calendar year. Any such worker who is injured on the job, or who is disabled by a disease resulting from the employment, is generally entitled to payment of the associated cost of medical treatment and cash payments to compensate for loss of wages.

ENFORCEMENT: *New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830).* To protect the right to workers' compensation benefits, notice of a worker's injury on the job should be given to the employer as soon as possible, but in no case later than 30 days after the injury occurred. Most compensation claims are not valid unless filed with the Board within 2 years after the injury.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS:

Licensing — With few exceptions, it is illegal for anyone to charge a fee for arranging jobs for workers, or for supplying workers to employers, without first obtaining an employment agency license from the state. Among other licensing conditions, the applicant must post a bond covering damages that may result from any misrepresentation, fraud or other illegal act committed by the employment agency or agent while conducting employment-related activities.

Limitation on Fees — An employment agency may not charge or accept a fee for its services until after a worker has actually been placed on the job. The total fee for placing a worker in agricultural employment of less than a month's duration is limited to 10 percent of the wages received by the worker over the term of the job, or 12 percent when one meal per working day is provided, 14 percent for two meals per day, and 18 percent for three meals and housing. For a job lasting longer than a month, these same fee limits apply only to the first full month's salary or wages.

Recordkeeping — For every worker referred to a job, the employment agent must keep a record of the date of the application, the start date of the job, and the fee charged for the agent's services. Similar information on the employers served by the agent must also be maintained.

Prohibited Acts — Among other illegal acts, it is unlawful for an employment agency to circulate any false or misleading job-related information, to knowingly refer a worker to employment which violates state or federal minimum wage or child labor laws, or to refer a worker to a workplace where a labor dispute is in progress without notifying the worker of that fact in writing.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).* A worker who has been recruited or referred to a job by an employment agency or agent in apparent violation of these provisions may file a complaint with the Department.

● MIGRANT REGISTRATION LAW

TERMS:

Contractor Registration — Before any individual, for a fee, recruits, transports, or hires farm or food processing workers on another person's behalf, or recruits, transports, or hires such workers and, for a fee, directs, supervises or controls their work, the individual must obtain a certificate of registration from the state. On the registration application, the contractor must provide information on wages, working conditions, housing and other aspects of the agricultural services to be performed. The application must be co-signed by each grower or food processor who utilizes those services.

Disclosure to Workers — A registered labor contractor is required to give a copy of the registration application, or a summary of the job specifications included in the application, to each worker recruited or employed. This must be done no later than the worker's time of arrival in New York or, if the worker is not from out of state, no later than the time the job begins. A copy must also be kept posted at any camp in which the workers are housed.

Pay Statements — Each worker employed, supervised or paid by a farm labor contractor is entitled to receive a written statement from the contractor with every payment of wages, showing the employer's name and address, the worker's name, the wage rate, the wages earned, the number of hours worked, units of production, all deductions fully itemized and explained, and net pay.

Growers and Processors — No farm operator or food processing plant may use the services of a farm labor contractor unless the grower or processor has a certificate for that purpose issued by the state and the contractor is properly registered. If the contractor fails to comply with the information and wage statement requirements outlined above, the state enforcement agency will notify the grower or processor, who will then be responsible for compliance. Likewise, any grower or processor who, without assistance from a farm labor contractor, brings 5 or more migrant farmworkers or food processing workers into New York must register with the state and comply with essentially the same requirements that apply to registered labor contractors.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such retaliation may file a complaint with the Department.

PESTICIDES AND AGRICULTURAL CHEMICALS

● ENVIRONMENTAL CONSERVATION LAW (*PESTICIDES*)

TERMS:

Permit to Purchase — With few exceptions, a state permit is required for the purchase, possession or use of any restricted pesticide. The applicant for a permit has to justify the need for the quantity and type of pesticide requested and must demonstrate knowledge and experience concerning the proper handling, application and disposal of the product. A permit is valid only for the particular pesticide and quantity indicated on the permit and must be properly canceled by the seller at the time the product is purchased.

Certification of Applicators — No one may engage in the commercial application of any pesticide, or the private agricultural application of a restricted-use pesticide, without first being certified by the state. An applicant for certification must show adequate knowledge and experience in the proper application of pesticides and the use of pesticide equipment by completing an examination. Certification is not valid unless the certificate-holder also has a valid identification card issued by the state agency. Apart from certification requirements, any individual or firm that provides commercial application of pesticides for hire must register with the state and meet state-prescribed standards of competence in the use of pesticides and pesticide equipment.

Prohibited Acts — Among numerous other prohibited activities, it is illegal for anyone (1) to detach or deface any part of the label on a pesticide product, (2) to store or dispose of a pesticide or pesticide container in a manner contrary to state regulations, (3) to buy, possess or use a restricted pesticide without a purchase permit or a certified applicator identification card, (4) to apply pesticides commercially without a certified applicator identification card, unless working under the direct supervision of a certified applicator, or (5) to engage in the pesticide application business without being registered.

ENFORCEMENT: *Bureau of Pest Management, Division of Materials Management, New York State Department of Environmental Conservation, Albany, New York 12233-7250 (518-402-8652).*

● LABOR LAW (*TOXIC SUBSTANCES*)

TERMS:

Posted Notice — Like most other classes of employers in New York, agricultural establishments must post a sign at the workplace, informing their workers of their right to receive information from the employer regarding the toxic substances found on the job.

Workers' Right to Information — Within 72 hours after receiving a written request from a worker or a worker's representative, an employer is obligated to provide the worker with information about each toxic substance to which he or she may be exposed on the job. This includes:

- (1) The common name, brand name and chemical name of each such substance.
- (2) The location of each substance at the workplace.
- (3) Its characteristics and the effects of exposure.
- (4) The symptoms of overexposure.
- (5) The potential for flammability, explosion or reactivity.
- (6) Appropriate emergency treatment.
- (7) Proper conditions for safe use and exposure.
- (8) Cleanup procedures for leaks and spills.

If the worker does not receive this information within 72 hours, the worker or workers affected cannot be forced to work with any substance on which information was requested.

Education and Training — Employers are required to provide each worker with an education and training program before the worker is assigned to a task that may involve exposure to a toxic substance, and to repeat the program once a year after that. Education and training must cover the same sort of information outlined above.

Recordkeeping — Employers must keep a record of the name, address, and Social Security number of every worker who handles or uses any material deemed toxic or hazardous by the U.S. Occupational Safety and Health Administration.

ENFORCEMENT: *Division of Safety and Health, Worker Protection Bureau, New York State Department of Labor, Albany, New York 12240 (518-457-3518).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. At any time within 30 days after a suspected act of retaliation, a worker may file a complaint with the Department.

WAGES AND HOURS

● LABOR LAW (*FARM WORKER MINIMUM WAGE*)

TERMS:

Coverage and Minimum Wage — Farm employers that paid at least \$3,000 in farm wages during the preceding calendar year are required to pay their workers no less than \$9.70 for every hour of work in the current calendar year.

Basis for Payment — The minimum wage applies whether the wage is paid on an hourly, piecework, commission or some other basis. For any given workweek or pay period, the worker's gross pay may not be less than the minimum hourly rate, multiplied by the number of hours the worker was on the job during that period.

Allowances for Meals, Housing and Utilities — With some exceptions, employers who provide meals to a worker may deduct \$1.70 per meal from the worker's gross wages, provided the worker earns no less than \$254 in a two-week period. Likewise, an employer who provides housing and utilities may deduct up to \$12.65 per week for multiple-occupancy housing, up to \$5.00 per day for an individual worker living alone, or \$8.00 a day for an individual worker residing with his or her family.

Prohibited Deductions — A covered employer is not allowed to make any deduction from a worker's pay for breakage, spoilage, cash shortages or losses, or fines or penalties for tardiness, misconduct or quitting without notice.

Pay Statements — For each pay period, the employer is required to furnish each worker a statement showing (1) the number of hours worked, (2) the worker's hourly or piece-rate wage, (3) the piece-rate unit and number of units produced, if applicable, (4) gross wages, (5) allowances and deductions, and (6) net wages.

Final Pay — Workers who are terminated must receive their full, final pay no later than the next regular payday after termination, along with a written statement showing total gross and net earnings and listing all deductions from gross pay.

Notifications — At the time of hire, a farm employer subject to these provisions must give each worker a written statement outlining the conditions of employment, including among other items (1) the employer's name, address and phone number, (2) the location and type of work, (3) the housing arrangements, including costs, (4) allowances, if any, to be deducted for meals and housing, (5) any benefits to be provided by the employer, (6) the wages to be paid and the pay schedule, (7) the period of employment, (8) all other planned payroll deductions, and (9) any overtime provisions. This same information must be posted by the employer in plain sight on the farm.

Employer Records — Every covered employer must keep a record of the name, address and Social Security number of each farm employee, the worker's total hours per day and week, the number of piecework units produced (if applicable), the wage rate paid, gross wages, deductions and allowances claimed, and any cash advances made to the worker. For any worker under the age of 18 that they employ, employers must document the child's name, address, birthdate, parent or guardian's name and address, and the number of the farm work permit issued to the minor if required.

Farm Labor Contractors — For purposes of the minimum wage, if a farm labor contractor recruits or supplies farmworkers for work on a farm, the workers are considered employees of the owner or operator of the farm.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).*

As an alternative to filing a wage claim with the Department, the law gives workers the right to sue the employer in civil court to enforce payment of the minimum wage, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by this provision. A worker subjected to any such retaliation may file a complaint with the Department.

● LABOR LAW (*PAYMENT OF WAGES*)

TERMS:

Frequency of Payments — In general, laborers must be paid weekly, no later than 7 calendar days after the end of the week in which the wages are earned. When a worker is terminated, the employer must pay final wages on or before the next regular payday.

Method of Payment — In general, workers' wages must be paid in cash. An exception allowing wage payments by direct deposit to a bank, with the written consent of the worker, *does not apply* to employees working on a farm not connected with a factory.

Wage Deductions — It is unlawful for an employer to make any deduction from a worker's wages unless the deduction is authorized by law or a court order, or the deduction is authorized in writing by the worker to cover insurance premiums, health benefits, union dues, or similar purposes.

Notifications — At the time of hiring, every employer must advise each new worker of the rate of pay and the regular designated payday. The worker must be notified of any change in the paydays prior to the time of the change.

Pay Statements — With every payment of wages, employers must furnish each worker with a statement listing gross earnings, deductions, and net pay. If requested by the worker, the employer must also provide an explanation of how the wages were computed.

Recordkeeping — Employers are required to keep payroll records for not less than 6 years, showing the hours worked, the rate or rates of pay, gross wages, deductions, and net pay for each employee.

ENFORCEMENT: *Division of Labor Standards, New York State Department of Labor, Albany, New York 12240 (518-457-4256; toll-free 888-469-7365).* As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer or farm labor contractor may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● TAX LAW (*PERSONAL INCOME TAX*)

TERMS: Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in New York must also withhold *state* income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before February 15 of the following year, the employer must provide the worker with a written statement showing the amount of wages paid to the worker and the amount deducted and withheld as tax.

ENFORCEMENT: *Collections and Civil Enforcement Division, New York State Department of Taxation and Finance, Albany, New York 12227 (518-591-1980).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

North Carolina

CHILD LABOR

● COMPULSORY ATTENDANCE LAW

TERMS: Every parent or other person having control of a child between the ages of 7 and 16 years must assure the child's continuous attendance at an approved public or private school for the entire length of the public school session.

ENFORCEMENT: This law is enforced by the local schools.

● CRIMINAL LAWS (*RECRUITING MINORS FOR OUT-OF-STATE EMPLOYMENT*)

TERMS: Anyone who persuades or influences a minor to leave North Carolina for the purpose of employment, or hires and transports a minor out of the state, without the written permission of the parent, guardian or other person having authority over the child, is guilty of a criminal offense. Punishment may include a fine of up to \$1,000, a jail sentence of up to 6 months, or both.

ENFORCEMENT: This provision is enforced by state and local law enforcement agencies, through the criminal courts.

CIVIL RIGHTS

● EQUAL EMPLOYMENT PRACTICES ACT

TERMS: Farm operators and other employers who regularly employ 15 or more workers are prohibited from discriminating against job applicants and workers with respect to employment when such discrimination is based on race, religion, color, national origin, age, sex or handicap.

ENFORCEMENT: *North Carolina Human Relations Commission, North Carolina Department of Administration, Raleigh, North Carolina 27699 (919-807-4420).*

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA

TERMS: In general, farm operators and most other employers in North Carolina are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state labor department has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker adversely affected by retaliation may file a complaint with the Department up to 180 days after the violation occurs.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (*FIELD SANITATION*)

TERMS: Under North Carolina's occupational safety and health law, the state labor department has adopted regulations requiring agricultural employers to provide their workers with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply to all agricultural establishments without regard to any specific number of employees.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker adversely affected by retaliation may file a complaint with the Department up to 180 days after the violation occurs.

HOUSING

● OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, the state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. North Carolina's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker adversely affected by retaliation may file a complaint with the Department up to 180 days after the violation occurs.

● MIGRANT HOUSING ACT OF NORTH CAROLINA

TERMS: The Migrant Housing Act regulates the health and safety of all migrant labor housing facilities in North Carolina.

Inspection and Certification — Anyone who owns or controls housing used as living quarters for workers required to be absent overnight from their permanent place of residence must request an inspection of the housing at least 45 days before it is occupied. In general, the housing may be occupied only if it has been certified by the state labor department or the U.S. Department of Labor to be in compliance with the standards adopted under this law.

Standards — Migrant housing facilities generally must meet the labor camp standards established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) but are subject to state rules that govern water quality, sewage systems, heating systems, fire safety, food service facilities, and bedding.

Inspections After Occupancy — After a migrant housing facility is occupied, inspections are normally allowable only if (1) workers and their families arrived before the expected occupancy date and were allowed to enter for the time being, (2) pre-occupancy inspection found violations, (3) the housing was found in violation in a previous year, or (4) a health hazard or violation has been reported by a government official or someone with first-hand knowledge and the report is credible.

Uninhabitable Housing — If a migrant housing facility is found to be unsafe or unfit for habitation but not reasonably expected to cause death or serious physical harm, anyone living there may be allowed to remain for up to 14 days while the housing owner or operator attempts to locate alternative housing for them; any alternative housing must be provided at or below the cost the occupants were paying for the housing being vacated. Occupied housing deemed uninhabitable and likely to cause death or serious injury cannot continue to be occupied, and the owner or operator must provide alternative housing at equal or lesser cost immediately.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).* This agency has primary responsibility for inspecting migrant housing facilities under the Act, and for issuing certifications authorizing occupancy. The Department also has authority to investigate and respond to reports of alleged violations.

The agency responsible for enforcing the water and sanitation regulations that apply to migrant housing is the *North Carolina Department of Environmental Quality, Raleigh, North Carolina 27603 (877-623-6748).*

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY LAW

TERMS: A farm operator or other agricultural employer who paid \$20,000 or more in farm wages during any 3-month period (calendar quarter) in the current or previous year, or employed at least 10 workers for any part of a day in 20 or more different weeks this year or last, is required to pay taxes to the state unemployment insurance fund. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Division of Employment Security, North Carolina Department of Commerce, Raleigh, North Carolina 27611 (919-707-1000; toll-free 888-737-0259).* Claims may be filed online, at www.ncesc.com.

SPECIAL NOTE: Under special rules for seasonal employment, farmworkers who earn at least one-fourth of their total wages each year from less-than-year-round jobs are likely to be eligible for unemployment benefits only if they are out of work during a period of time when they would normally be employed in seasonal work. During any other time of year, eligibility for benefits, and the amount of those benefits, must be figured using each worker's *non-seasonal* wages only.

● NORTH CAROLINA WORKERS' COMPENSATION ACT

TERMS: Farm operators and other agricultural employers who regularly employ 10 or more full-time non-seasonal farmworkers are required to have workers' compensation insurance, or else be financially able to pay compensation directly, in the event a worker is injured on the job or disabled by a job-related disease.

Farmworkers who work for such an employer and who suffer a job-related injury or disease are generally entitled to medical treatment at the employer's expense, regular cash payments to make up for lost wages, and other benefits. If the accident or illness results in the worker's death, the worker's dependents may be eligible for similar compensation.

ENFORCEMENT: *Compliance Unit, North Carolina Industrial Commission, Raleigh, North Carolina 27699 (919-807-2525; toll-free 800-688-8349).* A worker who is injured while working for a farm operator covered by this law normally must notify the employer within 30 days of the accident. The employer is required to furnish medical treatment immediately, and if the worker is disabled for longer than 7 days the employer must see that compensation payments begin. The right to compensation, however, is lost unless a claim is filed within 2 years after the accident or onset of the illness involved.

A worker who has a dispute with an employer or insurance carrier regarding eligibility for compensation, or over the amount or duration of benefits, may apply to the Commission for a hearing.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a workers' compensation claim or made use of any other right granted by this law.

PESTICIDES AND AGRICULTURAL CHEMICALS

● NORTH CAROLINA PESTICIDE LAW OF 1971

TERMS:

Commercial Applicator Licensing — No one may apply pesticides as a business without first obtaining a commercial applicator license from the state to do so. Issuance of a license requires the applicant to demonstrate his or her technical qualifications to conduct such operations, as well as knowledge of the laws and regulations governing use and application of pesticides.

Private Applicator Licensing — Farm operators who use or supervise the use of restricted pesticides on their own crops, and who are not licensed as commercial applicators, must be certified by the state as private applicators. Certification generally requires, among other conditions, that the applicant participate in a state-approved classroom training program dealing with pest control and pesticide safety.

Pesticide Storage and Disposal — No pesticide may be stored in an unlabeled container, nor may such substances be stored in any food, feed, beverage or medicine container. Pesticides may not be stored in a manner that could lead to contamination of foods, feeds, beverages, eating utensils, or tobacco products, or that could result in accidental swallowing of the substance by humans or domestic animals. At the same time, it is unlawful to dispose of pesticides or pesticide containers in any way which could cause or allow such items to be dumped in the open, burned in the open, or dumped in the ocean or in some other body of water.

Prohibited Acts — Among numerous other restrictions and offenses mentioned in the law, it is unlawful for anyone to (1) transport, store or handle pesticides in such a manner as to endanger human life, the environment, food, feed or other products, (2) detach or destroy all or any part of the labeling on a pesticide product, or (3) use a pesticide in a manner contrary to the instructions on the product's label.

ENFORCEMENT: *Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).*

● NORTH CAROLINA PESTICIDE LAW OF 1971 (*AERIAL APPLICATORS*)

TERMS:

Licensing — The contractor and each pilot involved in application of pesticides from the air must be licensed. Among other qualifications for licensing, a pilot must generally have at least 125 hours and one year's flying experience in aerial pesticide application activities.

Aircraft Inspection — Each aircraft used in the application of pesticides must be inspected each year and must carry a license plate or decal issued by the state enforcement agency. The agency may also conduct unannounced aircraft inspections, to determine if equipment is properly calibrated and maintained.

Compliance with Federal Requirements — A license to perform aerial application of pesticides will not be granted to an applicant who has not met federal requirements for agricultural aviation operations (*see entries, U.S. — Pesticides and Agricultural Chemicals*).

Application Standards — Among many other restrictions and conditions, no pesticide may be applied from the air while anyone other than those assisting in the application are in the target area. Aerial spray equipment must be free of leaks and have shut-off systems to prevent release of pesticides over non-target areas. Pilots are required to take certain precautions to prevent drift, and to comply with special rules when applying pesticides in restricted areas such as the immediate vicinity of houses, public roads, and public buildings.

Handling and Loading of Pesticides — Pilots or workers handling or loading any pesticide product whose label displays the word "Danger" must wear approved respirators and protective clothing, including chemical-resistant gloves and boots. Water and detergent for personal washing must be available at all handling and loading sites.

ENFORCEMENT: *Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).*

● NORTH CAROLINA PESTICIDE LAW OF 1971 (*WORKER PROTECTION*)

TERMS: North Carolina has adopted and currently enforces the worker protection standards developed by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

In addition to the information required by the EPA regulations to be posted when workers are in a location where restricted-use pesticides have been applied within the last 30 days or a restricted-entry interval has been in effect, the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. The farm employer is required to keep all such records for a period of at least 2 years from the specific time of day when each pesticide application was completed.

ENFORCEMENT: *Pesticide Section, Structural Pest Control and Pesticide Division, North Carolina Department of Agriculture and Consumer Services, Raleigh, North Carolina 27699 (919-733-3556).*

● HAZARDOUS CHEMICALS RIGHT TO KNOW ACT

TERMS:

Requirements for Large Farms — Farm operations with more than 10 full-time employees are required to comply with all provisions of the Right to Know Act, briefly summarized as follows:

Hazardous Substance List — Employers must keep a current list of each hazardous chemical normally used or stored at their farm or workplace in an amount more than 55 gallons or 500 pounds, whichever is greater. For each such substance, the list must include, among other information, the name of the chemical, the quantity usually stored at the site, and the location at the site where the material is normally stored.

Material Safety Data Sheets — For each hazardous chemical they buy, employers must obtain from the manufacturer or distributor a current material safety data sheet, a document containing certain identifying information, health hazard and safety information, handling precautions, and other prescribed data.

Worker's Right To Know — A worker is entitled to receive an employer's hazardous substance list and a safety data sheet for each substance on the list, by submitting a written request to the employer. The requested materials must be provided within 10 days after receipt of the request by the employer, at a fee not to exceed the cost of copying.

Requirements for Smaller Farms — A farm operation that employs 10 or fewer full-time workers but which normally stores at least 55 gallons or 500 pounds of a hazardous chemical, whichever is greater, is required to furnish the local fire department with the name and telephone number of a knowledgeable representative of the employer who can be contacted in case of emergency or for further information. These employers are not subject to any other requirement of this law.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SPECIAL NOTE: Under North Carolina's federally approved occupational safety and health program, farmworkers employed by a farm operation which employs more than 10 workers, or which operates a temporary labor camp, must also receive formal training from the employer regarding the hazardous substances found in the workplace.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA (*ANHYDROUS AMMONIA*)

TERMS: Under North Carolina's occupational safety and health law, the state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. North Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Agricultural Safety and Health Bureau, Occupational Safety and Health Division, North Carolina Department of Labor, Raleigh, North Carolina 27603 (919-807-2926; toll-free 800-625-2267).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker adversely affected by retaliation may file a complaint with the Department up to 180 days after the violation occurs.

TRANSPORTATION

● MOTOR VEHICLE LAWS (*MOTOR CARRIERS OF MIGRATORY FARM WORKERS*)

TERMS:

Transportation Standards — Anyone who, for pay or profit, transports 5 or more migrant farmworkers in North Carolina at any one time to or from the workplace, in any motor vehicle other than a passenger car or station wagon, must comply with state safety standards, briefly summarized here:

Vehicles — Vehicles used to transport workers must meet minimum specifications on trailer connection devices, lighting equipment, exhaust systems, rear-view mirrors, brakes, steering mechanisms, tires, windshield wipers, and warning devices.

Operating Rules — Anyone who drives a vehicle transporting 5 or more migrant farmworkers must follow prescribed rules governing operation of the vehicle, the loading of passengers and cargo, and maximum driving hours. Individuals who operate vehicles covered by these provisions must meet minimum age and skill requirements, be in acceptable physical condition, and be properly licensed, all in accordance with specific regulatory standards.

Passenger Safety — Vehicles must be properly outfitted with fire extinguishers and first-aid equipment, have adequate seating accommodations, and comply with other passenger safety standards. The law also requires periodic meal and rest stops and requires operators to observe limits on the passenger capacity of their vehicles.

Exemptions — These provisions *do not apply* to (1) a migrant farmworker transporting only the worker and the worker's immediate family, (2) the transportation of migratory farmworkers in a vehicle owned by a farmer to and from employment in the farmer's own operation, or (3) any public transportation service certified or licensed by the state or federal government.

ENFORCEMENT: These provisions are enforced by state and local law enforcement agencies, which are authorized to stop any motor vehicle on the public streets and highways for the purpose of assuring compliance.

WAGES AND HOURS

● WAGE AND HOUR ACT (*WAGE PAYMENTS*)

TERMS:

Paydays and Pay Periods — Employers must pay their workers' wages on a regular payday. Pay periods may be daily, weekly, bi-weekly, semi-monthly, or monthly. Bonuses, commissions or other forms of compensation may be paid as infrequently as once a year if announced by the employer in advance.

Form of Payment — Wages may be paid in cash, by money order or negotiable check, or by direct deposit into a federally insured bank or an institution selected by the worker.

Final Wages — Workers whose employment ends for any reason must be paid all wages due on or before the next regular payday, and any bonus or other such compensation is payable on the first regular payday after the amount due can be determined.

Withholding of Wages — It is illegal for an employer to withhold or divert any part of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the employer has a signed prior authorization from the worker indicating the purpose of the deduction. Furthermore, the cash value of loss or damage to an employer's property may not be deducted from a worker's wages unless the worker receives at least 7 days' notice of the amount to be deducted.

Statement of Deductions — For each pay period in which any deduction from wages occurs, the employer must provide the worker with an itemized statement of deductions.

Notification — At the time of hiring, employers must formally notify their new employees as to pay rates, compensation policies, and the day and place for payment of wages. In addition, workers must have access to a written statement or posted notice of the employer's policies regarding holidays, vacation pay and comparable matters.

ENFORCEMENT: *Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699 (919-807-2796; toll-free 800-625-2267).* A worker may submit a claim for unpaid wages to the Department, which must attempt to collect a valid claim through informal methods prior to exercising its power to take court action on the worker's behalf to recover the claim.

As an alternative to enforcement by the Department, a worker may take legal action against the employer to collect unpaid wages using a private attorney or public legal service provider. Regardless of whether the action is brought by the Department or directly by the worker, any such suit must be filed within 2 years after the date the unpaid wages were due.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to any such retaliation may file a complaint with the Department up to 180 days after the violation occurs.

● REVENUE ACT (*INCOME TAX WITHHOLDING*)

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year, or within 30 days after the last wage payment is made, the employer must provide the worker with a statement showing (1) the employer's name, address and taxpayer identification number, (2) the worker's name and Social Security number, (3) the total amount of wages paid during the calendar year, and (4) the total amount of state income tax deducted and withheld.

ENFORCEMENT: *North Carolina Department of Revenue, Raleigh, North Carolina 27640 (919-707-0880; toll-free 877-252-3052).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

North Dakota

CHILD LABOR

● SCHOOL ATTENDANCE LAW

TERMS: In general, every parent or other person who lives in North Dakota and has control over a child 7 to 16 years of age must send the child to a public or approved non-public school for the entire length of the public school session.

ENFORCEMENT: The school attendance law is enforced by the teachers and administrators of the local school districts.

CIVIL RIGHTS

● HUMAN RIGHTS LAW

TERMS: An employer who has one or more employees for more than 1/4 of the year is prohibited from (1) refusing to hire a job applicant, (2) firing an employee, or (3) treating an employee or job applicant unequally or unfavorably in hiring, training, promotion, compensation, layoff or other terms of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, status with respect to marriage or public assistance, or participation in a lawful activity off the employer's premises during non-working hours.

Advertising, publishing or indicating in some other way that individuals of a particular race, color, religion, sex, national origin, age, physical or mental disability, marital status, public assistance status, or who participate in lawful activity off the employer's premises during non-working hours are unwelcome, objectionable or not acceptable is also illegal.

Exception — It is generally not discriminatory for an employer to refuse to hire a person, or to fire an employee, on the basis of religion, sex, national origin, physical or mental disability, or marital status, in situations where religion, sex, national origin, physical or mental disability, or marital status is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

ENFORCEMENT: *Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032).* The Department may accept and act on a complaint charging discriminatory employment practices at any time within 300 days of the alleged violation.

Instead of filing a complaint with the Department, anyone affected by an act of employment discrimination may take legal action in state district court against the employer involved, using a private attorney or public legal service provider. Any such action must be filed within 300 days of the alleged violation, but if a complaint is first filed with the Department, court action must commence no later than 90 days after the Department dismisses the complaint or issues a written determination.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● EQUAL PAY LAW

TERMS: With only limited exceptions, it is illegal for any employer to pay a worker at a wage rate less than the rate paid to a worker of the opposite sex at the same place of employment, for essentially equal work on jobs which have comparable requirements relating to skill, effort and responsibility.

However, wage differences that are based on an established seniority system, merit increase system, or similar program that does not discriminate on the basis of sex, generally are not regarded as unlawful.

ENFORCEMENT: *Human Rights Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce the equal pay provision, using a private attorney or a public legal services program. Legal action must commence no later than 2 years after the violation occurred.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

● GENERAL LABOR LAWS (*AGE DISCRIMINATION*)

TERMS: In general, no one carrying on any business in North Dakota may fire a worker or refuse to hire a job applicant solely on the basis of age, when the job does not reasonably require an age distinction and the worker or applicant is otherwise qualified for the job.

ENFORCEMENT: This provision may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

INSURANCE AND COMPENSATION

● NORTH DAKOTA UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more agricultural workers for some part of a day in each of 20 different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. The amount of weekly benefits depends on each worker's earnings over a certain period preceding the claim.

ENFORCEMENT: *Unemployment Insurance Tax and Field Services, Job Service North Dakota, Bismarck, North Dakota 58506 (701-328-2814)*. Unemployment claims may be filed by automated phone service, at 701-328-4995, or online at apps.nd.gov/jsnd/uiiaclaims/login.htm.

PESTICIDES AND AGRICULTURAL CHEMICALS

● NORTH DAKOTA PESTICIDE ACT OF 1975

TERMS:

Applicator Certification — In general, no one may purchase, use or supervise the use of any restricted pesticide for commercial purposes without obtaining a commercial pesticide applicator's license and complying with state certification standards. Similarly, agricultural producers who intend to use restricted pesticides on their own property, or without pay on agricultural lands belonging to another producer, must be certified by the state as private applicators before buying, using or supervising the use of any such product. Among other violations for which a license or certification may be denied, suspended or revoked are the following:

- (1) Applying a pesticide in a manner contrary to the product label.
- (2) Operating faulty or unsafe equipment.
- (3) Refusing or neglecting to keep required records or make required reports.
- (4) Operating unlicensed equipment.
- (5) Purchasing, using or supervising the use of a restricted pesticide without complying with certification requirements.

Financial Responsibility — Applicants for commercial applicator certification must submit proof of their ability to pay for damage or injury caused by their pesticide application activity. This requirement may be met by obtaining bonding or liability insurance in the amount of at least \$100,000.

Pesticide Storage and Disposal — It is illegal for anyone to store or dispose of pesticides or empty pesticide containers in a manner that would endanger humans, the environment, food, feed or other products.

ENFORCEMENT: *Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922).*

A person who has suffered damages from a violation of the Pesticide Act may take legal action against the applicator involved, using a private attorney or public legal service provider. In general, a person's action for damages cannot go forward unless the person has notified the applicator within 28 days from the date the person knew the loss had occurred.

● AERONAUTICS LAWS (*AERIAL SPRAYING*)

TERMS:

Aerial Applicator Licensing — Every person or firm involved in applying pesticides by aircraft must be licensed by the state as an aerial applicator. As a condition for licensing, pilots generally must have at least 250 hours of flight time in the type of aircraft to be used for agricultural spraying, along with other qualifications. In addition, operators of aerial application businesses (or their chief pilots) must attend state-approved training, attend an annual aerial applicator safety meeting, or receive the information provided at the annual meeting.

FAA-licensed private pilots may apply pesticides by aircraft to their own land, provided they (1) meet experience requirements similar to those applicable to commercial aerial applicators, (2) provide the state licensing agency with a legal description of the land they own or farm, and (3) do not offer pesticide application services to others for hire or for any other form of compensation.

Aircraft Registration — Airplanes and helicopters used for aerial application of pesticides must be registered with the state prior to actual use and prior to issuance of an aerial applicator's license to the aircraft's owner or operator. Each such aircraft must be in good functional condition, free from obvious points of leakage and equipped with prescribed shut-off valves to prevent release of pesticides over non-target areas.

ENFORCEMENT: *North Dakota Aeronautics Commission, Bismarck, North Dakota 58502 (701-328-9650).*

● ANHYDROUS AMMONIA FACILITIES LAW

TERMS:

Construction of Containers — Tanks used for the storage and transportation of anhydrous ammonia (a hazardous chemical commonly used as an agricultural fertilizer) must be constructed in accordance with detailed specifications. All such containers must be equipped with prescribed gauges and valves and must be properly marked with required warnings. Hoses, valves and other fittings must meet specified safety standards.

On-Farm Equipment — Tanks attached to farm wagons or trailers for transportation of anhydrous ammonia to and from the fields must be securely mounted, and each wagon or trailer must be securely attached to the tractor or other vehicle pulling it.

ENFORCEMENT: *Pesticide Enforcement Program, North Dakota Department of Agriculture, Bismarck, North Dakota 58505 (701-328-4922).*

WAGES AND HOURS

● MINIMUM WAGE AND HOUR LAW

TERMS: With virtually no exceptions, agricultural workers are entitled to the \$7.25 state hourly minimum wage.

ENFORCEMENT: *Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE COLLECTION LAW

TERMS:

Paydays and Pay Periods — Farm operators and all other employers must pay their workers' wages at least once each calendar month, on regular paydays designated in advance by the employer.

Method of Payment — Wages must be paid (1) in lawful U.S. currency, (2) by check, written on a bank convenient to the place of employment, (3) by direct deposit, to a financial institution of the worker's choice, or (4) with a stored-value debit or ATM card issued by a federally insured bank or credit union. The use of a stored-value card is optional for the employer and the worker.

Final Wages — Whenever an employer fires or lays off a worker, or when a worker quits or resigns, any unpaid wages must be paid by the next regular payday.

Deductions from Pay — Employers may withhold from a worker's wages only those amounts (1) authorized to be withheld under state or federal law, or by a court order, (2) authorized in writing by the worker, (3) deducted for repayment of a documented advance made by the employer to the worker, or (4) deducted for damage, breakage or similar cause and authorized by the worker at the time of the deduction.

ENFORCEMENT: *Wage and Hour Division, North Dakota Department of Labor and Human Rights, Bismarck, North Dakota 58505 (701-328-2660; toll-free 800-582-8032).* The Department is obligated to cooperate with a worker in enforcing a claim for unpaid wages lodged against an employer when it appears that the claim is valid, and when the claim is filed within 2 years from the date the wages were due.

● INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

On or before January 31 of the following year, the employer is required to provide the worker with a written statement showing the worker's total wages and the amount of state income tax withheld.

ENFORCEMENT: *North Dakota Office of State Tax Commissioner, Bismarck, North Dakota 58505 (701-328-1247).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Ohio

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Age and Schooling Certificates — A child under the age of 18 who lives in an agricultural labor camp is generally not permitted to work on a farm or any other agricultural establishment without first obtaining a valid age and schooling certificate from the local school district and presenting it to the employer. No such certificate may be issued to a child under the age of 14.

An age and schooling certificate is *not required* for agricultural employment by minors who do not reside in an agricultural labor camp.

Hazardous Employment — Among other hazardous farm-related activities, generally no one under 16 may be employed (1) in connection with the operation of a tractor of more than 20 horsepower, (2) in connection with the operation of a corn picker, cotton harvester, combine or any similar equipment, (3) in any job requiring work from a ladder or scaffold at a height of more than 20 feet, (4) as a driver of a truck, bus or car carrying passengers, or (5) in a job requiring the handling or application of certain toxic pesticides or the application or transfer of ammonia.

Working Hours — With few exceptions, it is illegal to employ a child under 16 during school hours. Such minors are generally authorized to work only between the hours of 7:00 a.m. and 7:00 p.m. (between 7:00 a.m. and 9:00 p.m. from June 1 to September 1, and during school holidays lasting 5 days or more). No one under 16 may be employed for more than 3 hours a day on a school day, for more than 18 hours a week in any week in which school is in session, for more than 8 hours on a non-school day, or for more than 40 hours in any week in which school is not in session.

Rest Periods — Employers may not employ a worker under 18 for more than 5 hours straight without allowing the worker a paid or unpaid rest period of at least 30 minutes.

Work Agreements — Before hiring anyone under 18, an employer must reach agreement with the worker concerning the wages to be paid, whether on a time or piecework basis. The employer must give the worker a written statement of the agreement, and on or before each payday must provide a statement of earnings due and the amount to be paid. No reduction in the agreed-upon wage rate is permitted without at least 24 hours' advance notice and completion of a new written agreement.

Withholding of Wages — Employers may not withhold any part of a minor's earnings because of any supposed carelessness on the worker's part, failure to comply with rules, breakage of equipment, or inability to perform the job.

Recordkeeping — For each worker under 18 who lives in an agricultural labor camp, a farm operator or other agricultural employer is required to keep a written record showing the worker's name, address and occupation, the number of hours worked on each day of the week, the start and end time of each work interval and rest period, and the amount of wages paid each pay period.

The recordkeeping requirements *do not apply* to the employment of minors who do not reside in an agricultural labor camp.

ENFORCEMENT: *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).*

The state superintendent of public instruction, the state director of health, the local school districts and local health departments all have the same authority to enforce the state child labor laws as the Department of Commerce.

● SCHOOL ATTENDANCE LAWS

TERMS: With few exceptions, the parent or guardian of any child between 6 and 18 years of age who is not employed under an age and schooling certificate must send the child to a school that meets minimum state standards, for the full time the school is in session.

During the regular school term, an age and schooling certificate may be issued only to a child over the age of 16 who has completed certain educational or vocational requirements.

These provisions apply even if the child's stay in Ohio is seasonal, the parent is a resident of another state, or the child has attended school for the legal period in another state.

ENFORCEMENT: The school attendance requirement is enforced by the local school boards, through attendance officers employed for that purpose.

● WORKERS' COMPENSATION LAW (ILLEGAL CHILD LABOR)

TERMS: Whenever a worker under the age of 18 is employed by a farm operator or any other employer in violation of the child labor laws, and is injured or becomes ill due to a hazard on the job, the child is entitled to *twice* the amount of workers' compensation benefits that would normally be payable for the injury or illness.

ENFORCEMENT: *Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292).* A minor who suffers a job-related injury, or disablement due to an occupational disease, may file a claim by mail, or online at www.bwc.ohio.gov/bwcccommon/forms/froi/default.asp. The fact that the worker was employed unlawfully does not affect eligibility for workers' compensation and may entitle the worker to double benefits, as described above.

CIVIL RIGHTS

● CIVIL RIGHTS LAW

TERMS: It is illegal for a farm operator or any other employer with 4 or more employees, because of the race, color, religion, sex, military status, national origin, disability, age or ancestry of any person, to fire the person without just cause, to refuse to hire the person, or to discriminate against the person with respect to wages, the terms and conditions of employment, or any matter directly or indirectly related to employment.

Unless approved in advance by the state enforcement agency, employers of 4 or more workers are not permitted to ask questions concerning a job applicant's race, color, religion, sex, military status, national origin, disability, age or ancestry, or to use any form of job application requesting such information. Employers of 4 or more workers may not publish any advertisement or notice indicating a preference for or discrimination against applicants on any of those same grounds, or make any record of such characteristics prior to employment.

Similar discriminatory acts by employment agencies and labor organizations are also prohibited.

ENFORCEMENT: *Ohio Civil Rights Commission, Columbus, Ohio 43215 (toll-free 888-278-7101).* A worker may file a complaint of a violation of this law with the Commission at any time within 6 months after the violation occurred.

Workers subjected to an unlawful employment practice have a right to sue the employer involved, using a private attorney or public legal service provider. Such a suit must be filed within 180 days after the alleged practice occurred. In the case of age discrimination, however, court action under the civil rights law automatically prevents the worker from filing a charge with the Civil Rights Commission and from filing suit under the state's age discrimination in employment law (*see entry after next*) with respect to the same complaint.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● **MINIMUM FAIR WAGE STANDARDS LAW (WAGE DISCRIMINATION)**

TERMS: Employers in Ohio are generally prohibited from discriminating in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry, by paying wages to any worker at a rate less than the rate paid to another worker at the same establishment for equal work, on jobs requiring equal skill, effort and responsibility and performed under similar conditions.

This does not, however, rule out wage differences that are paid under a seniority system, a merit system, a system that measures earnings by the quantity or quality of production, or any similar pay arrangement in which wage levels are determined by factors other than race, color, religion, sex, age, national origin, or ancestry.

ENFORCEMENT: *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. Court action, however, must be started within one year after a violation.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● **AGE DISCRIMINATION IN EMPLOYMENT LAW**

TERMS: It is unlawful for an employer to discriminate against a job applicant, or to fire a worker without just cause, when the applicant or worker is 40 years of age or older, is physically able to perform the duties of the job, and otherwise meets the established requirements of the position.

ENFORCEMENT: Anyone 40 years of age or older who has been subjected to age discrimination in violation of this provision may file a civil suit against the employer involved, using a private attorney or a public legal services program. However, a worker who takes court action directly is not allowed to take the same complaint to the state Civil Rights Commission under the civil rights law, described in a previous entry.

● **WHISTLEBLOWER'S PROTECTION LAW**

TERMS: Whenever a worker (1) learns of a violation of a federal or state law that his or her employer has authority to correct, and (2) reasonably believes that the violation is a criminal offense that could cause harm to people or threaten public health or safety, the worker is required to notify a supervisor of the violation.

If the employer does not correct the violation or make a reasonable and good-faith effort to do so within 24 hours, the worker may file a written report of the matter with a police officer or other appropriate public official or agency.

In general, it is illegal for an employer to discipline or retaliate in any other way against a worker for making any such report.

ENFORCEMENT: If an employer retaliates against a worker because the worker reported unlawful activity within the employer's authority to correct, the worker may take legal action against the employer in civil court for relief, using a private attorney or public legal service provider. The suit must be commenced within 180 days after the date the disciplinary or retaliatory action was taken.

● MISCELLANEOUS LABOR LAWS (*COMPULSORY SALES TO EMPLOYEES*)

TERMS: It is against the law for an employer or anyone else to force or attempt to force a worker to purchase goods or supplies from a particular person or company.

ENFORCEMENT: Using a private attorney or a public legal service provider, a worker forced to purchase tools, supplies or other goods in violation of this provision may file suit against the person responsible. The worker is entitled to recover *double* the amount of the charges made for the merchandise, or *double* the amount paid that exceeds the reasonable or current cash market value of the merchandise.

HEALTH AND SAFETY

● GENERAL LABOR LAWS (*SAFETY IN THE WORKPLACE*)

TERMS: Employers in Ohio have a general duty to furnish employment and a place of employment which are reasonably safe for their employees, to use safeguards and adopt practices that promote workplace safety, and to take every other step reasonably necessary to protect the life, health and safety of their workers.

ENFORCEMENT: *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).*

HOUSING

● AGRICULTURAL LABOR CAMP LAW

TERMS: This law regulates the operation of agricultural labor camps in Ohio, defined in brief as one or more structures, trailers, tents or vehicles established or used as temporary living quarters for 2 or more families or 5 or more workers engaged in agriculture or related food processing.

Licensing and Inspection — No agricultural labor camp may be operated in Ohio without a license issued by the state. Anyone who intends to operate such a facility during the year generally must apply for a license before April 15 of that year. A license will not be issued unless tests indicate that the water supply meets state standards and the housing is free of violations related to sanitation, drainage or habitability.

Labor Camp Standards — The public health director has adopted minimum standards that must be met before an agricultural labor camp license may be issued. Among many other factors considered in determining if a housing facility meets these standards are these:

- The condition of the camp site and buildings
- The water supply
- The electrical system and lighting
- The sewage disposal system
- Ventilation and screens
- Toilet facilities
- Bathing facilities
- Cooking space and facilities
- Sleeping accommodations
- Laundry facilities
- Heating equipment
- Trash disposal equipment and procedures
- Pest control measures
- Safety equipment and restrictions on hazardous materials

ENFORCEMENT: *Agricultural Labor Camp Program, Bureau of Environmental Health, Ohio Department of Health, Columbus, Ohio 43215 (614-644-7455).*

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or crew leader who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 workers in agricultural labor for some part of a day in each of 20 different weeks this year or last, must pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Office of Unemployment Insurance Operations, Ohio Department of Job and Family Services, Columbus, Ohio 43215 (614-466-2319; toll-free 877-644-6562).* Unemployment claims may be filed toll-free by phone, at 877-644-6562, or online at unemployment.ohio.gov.

SPECIAL NOTE: Under special provisions in the law, workers who have earned some or all of their recent wages from seasonal work in seasonal industries (which may include many agricultural operations) may be eligible for unemployment benefits only when they are without work during the times they would normally be employed in those industries, or may be eligible for fewer weeks of benefits than workers employed in non-seasonal industries. However, a worker's earnings may not be treated as seasonal unless the individual employer involved has applied for and received formal designation by the state agency as a seasonal employer.

● WORKERS' COMPENSATION LAW

TERMS: A farmworker who is injured on the job or is disabled by a disease resulting from employment, and the dependents of any worker who dies as a result of a work-related accident or occupational disease, are entitled to cash compensation, medical treatment, medicines, and related benefits. The financial responsibility for providing such benefits is on the employer, who must either pay premiums to the state workers' compensation fund, or obtain a bond guaranteeing payment of required compensation directly.

ENFORCEMENT: *Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292).* A worker who is injured on the job or disabled by an occupational disease, or the dependents of a worker whose death is related to such an injury or disease, may file a claim in person, by phone, or online at www.bwc.ohio.gov/bwcccommon/forms/froi/default.asp.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE LAW

TERMS:

Licensing —

Pesticide Businesses — No one may own or operate a business whose purpose it is to apply pesticides to someone else's property for hire without first obtaining a pesticide business license from the state. Among other requirements for obtaining a business license, the applicant must have liability insurance in the minimum amount of \$300,000 covering potential damage caused by the application of pesticides.

Commercial Applicators — No one (other than a private applicator, discussed next) may apply a restricted pesticide without having a commercial applicator license issued by the state. As a condition for receiving such a license, applicants must pass examinations testing their competence to apply pesticides safely and effectively.

Private Applicators — A private applicator's license is required for any non-commercial applicator who intends to apply a restricted pesticide to agricultural crops on the applicator's own land, or on someone else's property when no fee is charged for such services. Applicants for a private applicator license must demonstrate adequate knowledge and competence to apply the types of pesticides they will be applying.

Storage and Disposal — Pesticides and pesticide containers must not be stored or disposed of in such a way as to harm the environment, contaminate animal feed or commercial fertilizers, or result in injury to crops, livestock or the general public. Pesticide handlers and applicators must observe detailed procedural rules spelled out in the state regulations.

Unlawful Acts — Among many other offenses defined in the pesticide law and associated regulations, it is illegal for anyone (1) to use or apply a pesticide contrary to the product's labeling or state regulations, (2) to use or supervise the use of a restricted pesticide without being licensed or certified to do so, or unless directly supervised by a certified applicator, (3) to fail or refuse to keep required records or make required reports, or (4) to operate in a faulty, careless or negligent manner, or operate faulty or unsafe equipment.

ENFORCEMENT: *Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).*

● PESTICIDE LAW (AGRICULTURAL WORKER SAFETY)

TERMS: Ohio has adopted the worker protection standard established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*) as the safety standard for pesticide workers in Ohio. It applies to all agricultural workers and handlers working with, in or around pesticides.

ENFORCEMENT: *Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).*

● FERTILIZER LAWS (ANHYDROUS AMMONIA)

TERMS: The state agriculture director has adopted safety standards for the storage and handling of anhydrous ammonia, a hazardous chemical commonly used as an agricultural fertilizer.

On-Farm Transportation Systems — Containers of 3,000 gallons capacity or less that are mounted on farm wagons used to transport ammonia must meet detailed standards covering construction, mountings, valves and accessories, and safety markings identifying the substance inside. The wagons must be securely attached to the vehicle pulling them.

Each unit transporting ammonia (1) must carry at least 5 gallons of water, for emergency treatment in the event of injuries to workers handling or applying the product, and (2) must be equipped with rubber gloves and either a full face mask or shield or a pair of tight-fitting goggles.

On-Farm Application Systems — Containers mounted on farm implements used to apply ammonia in the fields must meet prescribed standards of construction, must be mounted securely, and must be marked clearly to identify the substance inside. Each such container must be equipped with a liquid-level gauge, a shutoff valve, and related safety devices.

Safety Training — Workers required to handle ammonia must be trained in safe operating practices and proper action to take in the event of emergencies.

ENFORCEMENT: *Enforcement Division, Ohio Department of Agriculture, Reynoldsburg, Ohio 43068 (614-728-6270).*

WAGES AND HOURS

● MINIMUM FAIR WAGE STANDARDS LAW

TERMS:

Minimum Wage — In general, a farm operator or other agricultural establishment that (1) has total annual sales of more than \$297,000 and (2) used more than 500 worker-days of agricultural labor in any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination), must pay each agricultural employee no less than \$8.15 an hour.

Farmworkers employed by an agricultural establishment that meets the 500 worker-day test, but whose sales amount to \$297,000 or less, are entitled to at least \$7.25 per hour for every hour of work.

Exceptions — The minimum wage requirements *do not apply* to:

- (1) Workers employed by a farm operation whose volume of sales and agricultural employment is below the coverage thresholds cited above.
- (2) Hand-harvest laborers who (a) are paid on a piece-rate basis, in an operation generally recognized as a piecework job in the local region, (b) commute daily from their permanent residence to the farm workplace, and (c) were employed in agriculture less than 13 weeks during the preceding year.
- (3) Hand-harvest laborers 16 years of age or younger who (a) are paid on a piece-rate basis in a recognized piecework operation, (b) are employed on the same farm as their parent or guardian, and (c) are paid the same piecework wage as workers over the age of 16 employed on the same farm.

Recordkeeping — Every agricultural employer subject to the state minimum wage must make a record of the name, address and occupation of each worker, the worker's pay rate, and the worker's total pay. Payroll records must be kept for at least 3 years.

Posting — Employers are required to keep a summary of the minimum fair wage standards law and the related regulations posted in an easily accessible place where workers covered by the law can see it.

ENFORCEMENT: *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).*

Instead of filing a wage claim with the state commerce department, a worker who does not receive the pay he or she is entitled to under this law may take legal action against the employer directly, using a private attorney or a public legal service provider. Court action must be started no later than 3 years after the date of the violation, or within one year after final action on a complaint by the commerce department for the same violation, whichever is later.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MISCELLANEOUS LABOR LAWS (*SEMI-MONTHLY PAYMENT OF WAGES*)

TERMS: On or before the first day of each month, employers are required to pay the wages earned by their employees during the first half of the preceding month, and on or before the 15th day of each month they must pay all wages earned during the last half of the preceding month.

This provision does not prohibit an employer from paying wages daily or weekly, or using a different pay period authorized by a written contract or under law.

ENFORCEMENT: *Bureau of Labor and Worker Safety, Division of Industrial Compliance and Labor, Ohio Department of Commerce, Reynoldsburg, Ohio 43068 (614-644-2223).* A worker who has not received wages within the timeframe described above may file a wage claim with the Department, which is authorized to investigate and assist in collection of a valid claim on the worker's behalf.

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● INCOME TAX LAW

TERMS: Unlike earnings in most other industries, wages paid for agricultural labor are not subject to withholding of state income tax.

ENFORCEMENT: *Compliance Division, Ohio Department of Taxation, Columbus, Ohio 43229 (toll-free 888-405-4091).*

SPECIAL NOTE: Even when a farm employer is not required to deduct state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Oklahoma

CHILD LABOR

● OKLAHOMA SCHOOL CODE (*COMPULSORY ATTENDANCE*)

TERMS: With few exceptions, every parent, guardian or other person having control of a child who is over the age of 5 and under the age of 18, and who has not finished four years of high-school work, must see that the child attends a public, private or other school.

ENFORCEMENT: This provision is enforced by local school attendance officers.

CIVIL RIGHTS

● OKLAHOMA ANTI-DISCRIMINATION ACT

TERMS: It is generally illegal for a farm operator or any other employer in Oklahoma to refuse to hire a job applicant, to fire an employee, or to discriminate against a worker with respect to the terms of the job, because of the person's race, color, religion, sex, national origin, age (40 and over), genetic information or disability.

Similarly, in most circumstances, no employer may print an employment notice or advertisement which indicates a preference or bias based on race, color, religion, sex, national origin, age, genetic information or disability.

ENFORCEMENT: *Office of Civil Rights Enforcement, Oklahoma Office of the Attorney General, Oklahoma City, Oklahoma 73105 (405-521-3921).* A worker who has been affected by an apparent act of employment discrimination may file a complaint with this agency, at any time within 180 days after the act occurred.

If the complaint is not resolved to the worker's satisfaction within 180 days after it is submitted, the agency may provide the worker with a notice of the right to sue, allowing the worker to take legal action against the employer involved in court, using a private attorney or public legal service provider. Court action must commence no later than 90 days after the worker receives the right-to-sue notice.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● EQUAL PAY LAW

TERMS: In general, it is unlawful for an employer to knowingly pay wages to a female employee at a rate less than the rate paid to a male employee for comparable work for the same employer, on jobs which have comparable requirements relating to skill, effort and responsibility. There are exceptions for wage differences based on seniority, merit, quantity or quality of production, or any other factor other than sex.

ENFORCEMENT: *Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY ACT OF 1980

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some portion of a day in 20 different weeks this year or last, must pay state unemployment insurance taxes. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. Benefits may generally range from \$16 to \$510 a week, depending on the worker's recent earnings.

ENFORCEMENT: *Oklahoma Employment Security Commission, Oklahoma City, Oklahoma 73152 (405-557-7100).* Unemployment compensation claims may be filed by phone, at 800-555-1554, or online at www.unemployment.state.ok.us/.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● MISCELLANEOUS LABOR LAWS (MISREPRESENTATION IN RECRUITMENT)

TERMS: It is illegal for an employer to bring workers of any sort into Oklahoma for employment, or to persuade workers to move from one place to another within the state, through false promises, false advertising, or deception regarding the nature of the work to be performed, the amount of compensation to be paid, the sanitary conditions on the job, the existence or non-existence of a strike or other labor dispute at the job site, or other conditions of employment.

ENFORCEMENT: *Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598)*. The Department is authorized to refer violations of this provision to local district attorneys for criminal prosecution.

A worker who is persuaded to relocate through misrepresentation concerning employment has the option of suing the person responsible for any resulting damages, using a private attorney or a public legal services program.

LABOR RELATIONS AND COLLECTIVE BARGAINING

● MISCELLANEOUS LABOR LAWS (*RECRUITMENT AND EMPLOYMENT OF STRIKEBREAKERS*)

TERMS: No one may recruit or advertise for workers, or refer workers to employment, to take the place of striking or locked-out employees without giving adequate notice of the existence of a strike or lockout at the workplace, and advising that the job offer is for the purpose of replacing striking or locked-out employees.

Under most circumstances, too, it is against the law for anyone to knowingly recruit or refer any replacement worker to a job formerly held by a worker who is on strike or locked out by the employer, when the replacement worker has repeatedly offered to take the place of employees involved in strikes or lockouts. It is also illegal for such a replacement worker to offer to take such a job.

ENFORCEMENT: *Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598)*. The Department is authorized to investigate and refer violations of this provision to local district attorneys for criminal prosecution.

PESTICIDES AND AGRICULTURAL CHEMICALS

● OKLAHOMA COMBINED PESTICIDE LAW

TERMS:

Licensing and Certification — It is unlawful for any person to do business as a commercial, non-commercial or private pesticide applicator unless the person has obtained a valid applicator's license from the state for the type of pesticide application the person intends to perform. There must be a certified applicator identified on each license issued, and certification requires the applicator to prove competence in the particular use of pesticides for which the license is issued.

Liability Insurance — No commercial applicator's license may be granted until the applicant furnishes evidence of insurance covering liability for damages that may occur as a result of the applicator's operations.

Prohibited Acts — Among other grounds for denial, suspension, revocation or non-renewal of licensing, a pesticide applicator is forbidden from (1) using a pesticide in a manner contrary to instructions on the product's labeling, (2) failing or refusing to keep required records, and (3) applying a pesticide without having the proper category of license permitting such use.

Complaints — The state agriculture department is required to receive and attempt to resolve written complaints involving the use or alleged misuse of pesticides.

ENFORCEMENT: *Pesticide Section, Consumer Protection Services Division, Oklahoma Department of Agriculture, Food, and Forestry, Oklahoma City, Oklahoma 73152 (405-522-6347)*.

WAGES AND HOURS

● WAGE PAYMENT LAW

TERMS:

Paydays and Pay Periods — Employers must pay their workers' wages at least twice a month, on regular paydays designated in advance by the employer. A payday must occur no more than 11 days after the end of the pay period.

Final Wages — Whenever a worker's employment ends, the employer generally must pay final wages in full on the next regular payday for the pay period in which the work was performed.

Method of Payment — Wages may be paid only (1) in lawful U.S. money, (2) by check or similar written draft that can be cashed on demand for U.S. money and at full face value, or (3) by electronic deposit to an account that the worker can access on demand and without discount.

Pay Statements — With each payment of wages, employers must provide each worker with an itemized statement showing all deductions from the worker's earnings.

ENFORCEMENT: *Wage and Hour Unit, Oklahoma Department of Labor, Oklahoma City, Oklahoma 73105 (405-521-6598).*

As an alternative to filing a wage claim with the Department, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

● OKLAHOMA INCOME TAX ACT

TERMS: With respect to any worker who is paid more than \$900 a month for agricultural labor, the employer or other person having control over the payment of the wages must deduct state income tax from the worker's pay and forward the withheld taxes to the state tax commission.

No later than January 31 of the following year, the employer is required to furnish the worker with a written statement showing the employer's name, the name and Social Security number of the worker, the total amount of wages paid, and the total amount of state income taxes withheld from the worker's pay.

ENFORCEMENT: *Compliance Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma (405-521-3251).* A worker who has reason to believe that income tax has been incorrectly withheld, or has not been properly paid or reported to the state, should contact a representative of the Commission.

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Oregon

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Age Restrictions —

Children Age 9 to 11 — In general, a child who is under 12 years of age but no younger than 9 may be employed in agriculture only to pick berries or beans, only outside school hours, and only if (1) the child is employed with permission from his or her parent or guardian, (2) the child is paid at the same rate as workers age 12 and over performing the same work for the same employer, (3) the crop involved is sold only within Oregon and not transported out of the state in any form, and (4) the state enforcement agency has certified that there are not sufficient workers in the immediate area to harvest the crop without using 9- to 11-year-old pickers.

Children Age 12 and 13 — Most forms of agricultural employment are open to minors 12 and 13 years of age, but only outside the local school year.

Children Age 14 and Over — As long as work occurs only outside local school hours and complies with the work time limits noted below, children 14 years of age and older may work in non-hazardous agricultural activities with no other state restrictions.

Maximum Hours —

During the School Year — No child under the age of 16 may be employed in agriculture for longer than 3 hours a day on school days, 10 hours a day on non-school days, or 25 hours a week during school weeks.

Outside the School Year — From the last day of the most recently completed local school year until the first day of the next local school year, no one under the age of 16 may work more than 10 hours a day, or more than 60 hours or 6 days in any week.

Exceptions for Work with Power-Driven Machinery — When a worker under age 16 is employed to operate or assist in operation of power-driven farm machinery, or to ride in or on such machinery, maximum hours during the school year are 3 hours a day on school days, 8 hours a day on non-school days, and 18 hours a week during school weeks; between school years (during "summer vacation" periods), employment time generally may not exceed 10 hours a day and 60 hours a week during the harvest season, and 10 hours a day and 44 hours a week outside the harvest season. Minors 16 and 17 years old working in or on power-driven farm machinery are generally limited to working 25 hours a week during school weeks, and 60 hours a week between school years ("summer vacation" periods).

Hazardous Occupations — In general, no minor may operate or assist in the operation of power-driven farm machinery, or ride in or on any such machinery, unless (1) the employer obtains an employment certificate from the state labor department, and (2) the minor has obtained a certificate of training on tractor or related machinery operation issued by an approved training provider.

Employment Permits — Employment of a minor under the age of 14 requires an employment permit, issued by the state labor department. Likewise, farm operators who wish to employ minors as young as 14 to operate or to ride in or on power-driven farm machinery, or to ride in or on trailers or similar equipment connected to power-driven farm machinery, are required to obtain a special certificate from the department as well; a certificate authorizing such work may be issued only with proof that the minor has completed some form of pre-employment training approved by the department.

Meal Periods — Without exception, every employee under 18 years of age is entitled to a meal period of no less than 30 minutes. The meal period is not included as part of the day's work time.

Rest Periods — Each minor must have a paid 15-minute break every 4 hours, to be given as close to the middle of the 4-hour period as possible.

ENFORCEMENT: *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, every child between the ages of 6 and 18 who has not completed the 12th grade must regularly attend a public full-time school in the district in which the child is living, or receive equivalent private or parochial school instruction. Anyone who has control of such a child is responsible for the child's regular school attendance.

Among other exceptions, 16- and 17-year-olds who are lawfully employed full-time, or who are employed part-time and in school part-time, may be excused from this requirement.

ENFORCEMENT: These provisions are enforced by attendance supervisors employed by the local school districts.

CIVIL RIGHTS

● CIVIL RIGHTS LAWS

TERMS: It is generally illegal for a farm operator or any other employer to refuse to hire a job applicant, or to fire a worker, because of the individual's race, color, religion, sex, sexual orientation, national origin, marital status, age (if 18 or older), or legally expunged juvenile record. Employers are also prohibited from discriminating against an individual because of the race, color, religion, sex, sexual orientation, national origin, marital status, or age of any other person the individual associates with.

It is also unlawful to discriminate against an individual with respect to pay, or in the terms or conditions of employment, on any of these same grounds, or to circulate any employment-related statement or advertisement, or use any form of job application, which expresses a preference or discrimination based on any such factor.

Other prohibited acts include discrimination against a person because of the person's on-the-job injury or use of workers' compensation rights, the person's military service status, or a disability which does not prevent performance of the work involved. The prohibition on discrimination against injured workers, and workers with physical or mental disabilities, applies only to employers with 6 or more employees.

ENFORCEMENT: *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* A worker who has been subjected to unlawful employment discrimination may file a complaint with this agency within one year after the violation occurred.

If, within one year after the filing of a complaint, the agency has been unable to resolve the complaint through conciliation, has not brought formal charges against the employer, or has made no formal determination in the case, the worker may take legal action against the employer in court within 90 days, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● EQUAL PAY LAW

TERMS: In general, no private employer in Oregon may pay wages to any worker that are lower than the wages the same employer pays to workers of the opposite sex for essentially equal work requiring essentially equal skills. This rule does not apply where wage rates are based on a seniority or merit system which does not discriminate on the basis of sex, or where a wage difference is based in good faith on factors other than sex.

ENFORCEMENT: *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844).*

As an alternative to filing a complaint with this agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● CIVIL RIGHTS LAWS (WHISTLEBLOWING)

TERMS: It is unlawful for an employer to fire, demote, suspend or in any manner discriminate or retaliate against an employee with regard to the terms and conditions of employment, because the employee has in good faith reported information that he or she believes is evidence of a violation of a state or federal law or regulation.

ENFORCEMENT: *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* A worker who has been subjected to discrimination or retaliation by his or her employer for having reported evidence of a violation of state or federal law may file a written complaint with this agency, up to one year after the alleged discriminatory or retaliatory action occurred.

Instead of filing a complaint with the Civil Rights Division, an aggrieved worker may take legal action against the employer in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, punish or discriminate in any way against a worker because the worker has filed a complaint, participated in an investigation or other enforcement action, or made use of any other right under this law.

HEALTH AND SAFETY

● OREGON SAFE EMPLOYMENT ACT

TERMS: The state agency that administers the Oregon Safe Employment Act has adopted workplace safety and health standards that apply specifically to agricultural operations. Key provisions that are most relevant to on-farm work activities in the field are summarized here.

Safety Orientation for Workers — Before any seasonal farmworkers begin work for the first time, and whenever working conditions or locations change in a way that could affect their safety and health, their employer must provide an orientation meeting with the workers to review (1) on-the-job safety and health rules, (2) procedures workers should follow to contact supervisors or managers in case of accident, illness or other safety or health problems, (3) procedures for treating injured or sick workers and for summoning emergency assistance, and (4) the location of posted safety and health information. The orientation must be provided in a way that the workers can understand, including the use of languages other than English for workers with language barriers.

Agriculture Equipment Safety Devices — Employers must protect workers from coming into contact with hazards created by moving machinery, by installing and using prescribed guards, shields or other protective devices. At the time of initial assignment and at least once a year thereafter, employers are required to instruct every worker in the safe operation and servicing of any equipment with which the worker will be involved.

Roll-Over Protections for Tractors — Agricultural tractors of more than 20 horsepower must be equipped with prescribed structures, as well as seat belts, to protect the driver from injury in the event of roll-over. Workers who operate tractors must be instructed in certain specified safe operating practices at the time they are first assigned tractor-related duties and at least once a year thereafter.

Ladders — Ladders used in agricultural operations must be in sound condition; ladders with cracked or broken side rails, missing steps, loose hardware or braces, or similar defects may not be used. Portable stepladders must be equipped with a metal spreader or locking device strong enough to hold the ladder open. Orchard ladders longer than 16 feet are prohibited.

Medical Services and First Aid — Every agricultural employer must have minimum prescribed first-aid supplies accessible to the workers. Where workers handle corrosive chemical substances, or pesticide products labeled "Danger" or "Poison," the employer must provide an emergency eyewash or shower that meets prescribed standards for decontamination. The employer must also develop an emergency medical plan, under which seriously ill or injured workers can get timely medical attention.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: Agricultural employers with 10 or fewer permanent, year-round employees (both full-time and part-time) are subject to scheduled inspections only if (1) a valid complaint of a violation of the Safe Employment Act has been filed against the employer, or (2) there has been a death or serious disabling injury at the employer's agricultural workplace within the preceding 2 years due to a violation of the Act, or (3) the employer and principal supervisors at the workplace have not completed at least 4 hours of documented instruction on agricultural safety and health procedures each year.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

● OREGON SAFE EMPLOYMENT ACT (*FIELD SANITATION*)

TERMS: The Oregon Safe Employment Act contains explicit provisions requiring employers of workers engaged in growing and harvesting food crops to furnish them with drinking water and sanitation facilities in the field.

Drinking Water — A supply of clean, sanitary water that meets state quality standards must be immediately available to all workers. The water must be suitably cool and dispensed in single-use cups or angle jet fountains. Common-use drinking cups or dippers are not allowed.

Toilet and Handwashing Facilities — Employers are required to provide at least one toilet and one handwashing facility for every 20 workers or fraction thereof. The toilet and handwashing facilities must be next to each other, and generally no more than a 5-minute or 1/4-mile walk from each worker's place of work.

Toilet units must have adequate ventilation, screens and self-closing doors lockable from the inside. There should be separate facilities for each sex, distinctly marked or labeled as such. A supply of toilet paper, soap and single-use towels sufficient to meet the workers' needs during each shift must be provided by the employer.

All such facilities must be kept in clean and sanitary condition, and must be designed and constructed so as to prevent crop contamination.

Posting — Every employer who uses field workers in the production of food crops must post a conspicuous notice, in English and any other language spoken by a majority of the workers, summarizing the field sanitation provisions and advising where workers may file sanitation-related complaints.

Reasonable Use — Employers must notify their field workers of the location of the facilities and allow each worker reasonable opportunities during the workday to use them. Workers must be advised of the importance of drinking plenty of water, urinating as frequently as necessary, and washing hands after using the toilet and before eating or smoking.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

HOUSING

● OREGON SAFE EMPLOYMENT ACT (*AGRICULTURAL LABOR HOUSING*)

TERMS: Under the Safe Employment Act, Oregon has adopted regulations to assure the health and safety of occupants of housing which is rented, leased or provided free of charge to farmworkers by an agricultural employer, farm labor contractor, or a housing operator in connection with the workers' farm employment. The following is a summary of key provisions.

Registration — All labor housing facilities must be registered with the state at least 45 days before opening each year.

Minimum Standards — Among many other factors considered in determining if a housing facility meets the standards specified in the state regulations are these:

- The size and condition of the housing site
- The availability of electric service
- The water supply
- Toilet, bathing and laundry facilities
- The sewage disposal system and plumbing
- Trash collection equipment and procedures
- The size and condition of living areas
- Heating equipment
- Sleeping accommodations
- Lighting and ventilation
- Fire protection devices and emergency escape facilities
- Cooking and eating facilities
- First aid equipment and emergency planning procedures

Closure and Alternative Housing — In the event a governmental authority declares a housing facility uninhabitable and orders it vacated, the operator of the facility must provide the occupants with replacement lodging for up to 7 consecutive days. The replacement housing must be approved in advance by Oregon OSHA and must be available at no charge to the displaced occupants.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

● LABOR AND EMPLOYMENT LAWS (*FARMWORKER CAMPS*)

TERMS: Anyone who provides housing for workers recruited or employed in the production or harvesting of farm crops must obtain a state license as a farm labor contractor and a special license endorsement to operate a farmworker camp.

Labor Contractor Licensing — An operator of a farmworker camp must apply to the state for a farm labor contractor license (*see entry, Oregon — Labor Contractors and Worker Recruitment*).

Farmworker Camp Endorsement — Once licensed, the farmworker camp operator must apply for a license endorsement authorizing operation of the camp. Among the requirements for receipt of a camp endorsement, the applicant must (1) pay an annual license fee, (2) obtain a bond or post a cash deposit of at least \$15,000 to cover potential damages from operation as a contractor and housing operator, and (3) pass an examination testing the applicant's knowledge and competence to operate as a labor contractor, including lawful operation of a farmworker housing facility.

Recordkeeping — Farmworker camp operators are required to make and keep for a period of 3 years records related to their housing activities. Among other information, the records must include the names and addresses of the residents of the camp, the dates of occupancy of each resident, records of any financial transactions between the operator and the residents, and records of any government-agency inspections of the camp and any citations issued.

Posting — In an outside area of the camp easily visible to occupants and visitors, the camp operator is required to keep conspicuously posted a notice disclosing the existence of the surety bond or deposit posted by the camp operator. The notice must indicate the amount of the bond or deposit, and note that it is conditioned on the operator's payment of all sums legally owed to any employees or camp occupants, and any damages resulting from fraud, misrepresentation or other unlawful act or omission on the camp operator's part.

Access to Telephone — When workers occupy farmworker housing that is owned or controlled by the employer, the employer must ensure that the occupants have reasonable access to an operating telephone at all times for emergency use. For non-emergency private use, the employer must provide workers occupying the housing with reasonable access to a telephone located within a 2-mile radius of the housing.

ENFORCEMENT: *Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463).* This agency administers the licensing of farm labor contractors in Oregon, including the issuance of farmworker camp operator endorsements. A person adversely affected by fraud, misrepresentation, or any other alleged violation of these provisions committed by a farmworker camp operator, may file a complaint against the camp operator and may have a claim against the operator's bond or deposit.

As outlined in the previous entry, enforcement of the safety and sanitation standards that apply to agricultural housing facilities in Oregon is the responsibility of the *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).* Any occupant of a farmworker camp who has a question or complaint about the housing itself may contact this agency.

SPECIAL NOTE: A farmworker camp operator may not fire, evict or discriminate in any manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● CIVIL RIGHTS LAWS (EMPLOYER-CONTROLLED HOUSING)

TERMS:

Access Rights — It is illegal for a farm operator or any other employer to restrict access to any worker-occupied housing owned, rented or controlled by the employer, either by the invited guests of a resident or by government officials, medical doctors, school personnel, or health care workers. The term "access" does not include the right to enter an individual worker's residence unless a member of the household consents to such entry, nor does it include the right of a visitor to use services provided by the employer for the exclusive use of the workers. Invited persons are not entitled to enter work areas.

Employer-Imposed Rules — An employer may adopt rules to regulate the use and occupancy of employee housing (including visiting hours), but only if the rules help protect the safety or welfare of residents or visitors, protect the employer's property from abuse, apply fairly to all workers on the premises, and explain clearly what must be done to comply. Any such rules must be posted in plain sight at least 3 days before taking effect.

Eviction or Discrimination — It is unlawful for an employer to evict or discriminate in any way against an employee, or a member of an employee's household, because the person has reported or complained about violations of these provisions, has communicated with anyone who has access rights to the housing facility, or has invited anyone to residential areas.

ENFORCEMENT: *Civil Rights Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0764).* A worker living in employer-provided housing who has been denied visitation at the housing site, or any authorized visitor who has been denied access, may file a complaint with the Civil Rights Division within one year after the alleged violation.

If the Division fails to file formal charges or otherwise resolve a worker's complaint within one year after the complaint is filed, the worker may file suit against the employer involved at any time within 90 days thereafter, using a private attorney or a public legal services program.

The worker also has the option of taking private legal action against the violator without first filing an administrative complaint with the Division, but any such suit must commence no later than one year after the violation occurred.

INSURANCE AND COMPENSATION

● EMPLOYMENT DEPARTMENT LAW

TERMS: Every farm operator or other employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers on any day in each of 20 different weeks this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary work time and wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, Oregon Employment Department, Salem, Oregon 97309-5068 (toll-free 877-345-3484).* Initial unemployment compensation claims may be filed online, at secure.emp.state.or.us/ocs4/.

● WORKERS' COMPENSATION LAW

TERMS: All farm operators and other agricultural employers in Oregon must have workers' compensation insurance, or be financially able to pay compensation benefits themselves. Farmworkers who are injured on the job are generally entitled to payment of medical costs related to the injury, as well as cash payments if the injury results in temporary or permanent disability. Compensation benefits for the death of a worker in a job-related accident are normally payable to the worker's dependents.

ENFORCEMENT: *Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288).* As a condition for approval of most claims for compensation, an on-the-job accident must be reported to the employer no later than 90 days after it happens. The first installment of compensation must be paid within 14 days after the employer has knowledge of the claim.

● OCCUPATIONAL DISEASE LAW

TERMS: Farmworkers who are disabled by a disease or infection caused by their employment may be eligible for cash compensation and medical payments, which are provided through the employer's workers' compensation insurance or paid by the employer directly. Claims for occupational disease benefits are handled in the same manner as claims for accidental injuries under the Workers' Compensation Law.

ENFORCEMENT: *Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288).* Occupational disease claims must generally be filed with the employer or the employer's insurance company within one year after the worker first discovers the disease, or within one year after the date of disablement or the diagnosis of occupational disease, whichever is later.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● LABOR CONTRACTOR LAW

TERMS:

Licensing — It is unlawful for anyone, for a fee, (1) to recruit, supply or employ workers to perform farm labor for another person, (2) to engage in such activities on behalf of a farm employer, or (3) to provide meals or housing in connection with the recruitment or employment of farmworkers, without having a valid farm labor contractor's license issued by the state.

Insurance and Bonding — Among other conditions which must be met before a license is issued, the applicant must submit proof of adequate insurance for any vehicles to be used to transport workers, along with a \$5,000 bond or other evidence of the contractor's ability to promptly pay workers' wages and other specified obligations.

Disclosure to Workers — At the time of recruitment or hiring, farm labor contractors are required to furnish each worker with a written statement, in English and any other language used by the contractor to communicate with the workers, describing:

- (1) The method for figuring pay.
- (2) The terms and conditions of any bonus offered.
- (3) The terms of any loans made to the worker.
- (4) The conditions on any housing, health or daycare services to be provided.
- (5) The terms and conditions of employment, including the approximate start and end dates.
- (6) The terms of any clothing or equipment to be furnished to the worker.
- (7) The name and address of the owner of all operations where the worker will be working.
- (8) The existence of any labor dispute at the worksite.
- (9) The worker's employment rights under state and federal law.

Pay Statements — Each time a contractor makes a payment of wages, the contractor must give each worker a written statement itemizing total wages, the amount and purpose of each deduction from wages, and the hours worked (or piecework production) and rate of pay.

Prohibited Activities — Among other unlawful acts, no one acting as a farm labor contractor may intentionally make any false or misleading statement to any person, or circulate any false information concerning employment. It is also illegal for a farm labor contractor to force a worker, or use threats of firing or deportation to persuade a worker, to give up any part of the worker's earnings.

Use of Contractor Services — A farm operator or anyone else who uses the services of an unlicensed labor contractor is personally, jointly and severally liable with the contractor for any damages awarded to a worker who prevails in a civil suit against the contractor for non-compliance or retaliation.

ENFORCEMENT: *Labor Contracting Unit, Wage and Hour Division, Oregon Bureau of Labor and Industries, Salem, Oregon 97305 (503-373-1463).* A worker who has evidence of a violation may submit a complaint to this agency, which may suspend, revoke or refuse to renew the license of the contractor if the investigation supports the allegations.

SPECIAL NOTE: A farm labor contractor may not fire or discriminate in any other manner against a person because the person has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MISCELLANEOUS LABOR LAWS (*MISREPRESENTATION IN RECRUITMENT*)

TERMS: No one who employs labor may bring workers into Oregon for employment, or persuade workers to change from one place of employment to another within the state, through deception or false information concerning the amount of pay or the existence or non-existence of a strike, lockout or other existing labor dispute. Neglecting to state in an advertisement or proposal for employment that there is a strike, lockout or unsettled labor problem at the proposed workplace, when such a condition actually exists, is illegal.

ENFORCEMENT: The protections provided under this law may be enforced only by legal action in civil court, through a private attorney or a public legal services program.

PESTICIDES AND AGRICULTURAL CHEMICALS

● STATE PESTICIDE CONTROL ACT

TERMS:

Licensing of Pesticide Businesses — Any business involved in applying pesticides on someone else's property must have a pesticide operator's license issued by the state. A license may not be issued until the applicant has, in addition to meeting other requirements, furnished proof of liability insurance or similar security covering injuries and property damage resulting from the applicant's pesticide operations. Individual pesticide applicators who are employed by such businesses must also be licensed.

Private Agricultural Applicators — Farm operators and their employees who apply restricted pesticides to crops on their own land must secure a private applicator's certificate from the state. Among other certification requirements, private agricultural applicators must pass an examination demonstrating adequate knowledge of such subjects as pesticides, application practices, safety precautions, and pesticide laws and regulations.

Prohibited Acts — Among other violations described in the Act, it is illegal for anyone to operate any faulty or unsafe pesticide application equipment, to apply pesticides in a faulty or careless manner, to fail to keep required records or make required reports, to use pesticides without proper licensing or certification, or to use any pesticide contrary to instructions on the product's label.

ENFORCEMENT: *Pesticides Program, Oregon Department of Agriculture, Salem, Oregon 97301 (503-986-4635).* No legal action may be taken against a pesticide application business for injury or damage from the use of a pesticide unless the person injured or damaged files a report of the matter with the Department within 60 days from the date the loss occurred or was discovered.

● OREGON SAFE EMPLOYMENT ACT (*WORKER PROTECTION*)

TERMS: The state agency that administers the Oregon Safe Employment Act has adopted the worker protection standard established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*), and applied it to all agricultural workers and pesticide handlers in Oregon. In addition, the state agency has adopted related rules especially relevant to the safety and health of workers exposed to pesticides, briefly summarized here:

Personal Protective Equipment — Farm employers are required to assess their workplaces to determine if hazards exist, or are likely to be present, which would make the use of personal protective equipment necessary to protect their workers. If so, employers must select appropriate protective equipment and ensure that each exposed worker use it. The employer is responsible for paying the cost of any specialized equipment, but the workers must pay for everyday protective items like gloves, long-sleeve shirts, long pants, conventional boots, broad-brim hats, and sunscreen.

Workers who are required to use personal protective equipment must receive training in its use, provided by the employer. Training must cover such topics as (1) when protective equipment is necessary, (2) how to put on, adjust and remove the equipment, and (3) the proper care, maintenance, storage and disposal of the equipment.

Respiratory Protection — When necessary to protect a worker against the adverse health effects of breathing pesticides or other agricultural chemicals in the air, a farm employer is required to provide the worker with a respirator and the worker is required to use it. Moreover, the employer must have an effective, written respiratory protection program that includes procedures for (1) selecting, fitting, maintaining and discarding respiratory equipment, and (2) training workers in the respiratory hazards to which they may be exposed and the effective use of respiratory equipment. In some situations, the program may include certain prescribed medical evaluations.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

● OREGON SAFE EMPLOYMENT ACT (HAZARD COMMUNICATION)

TERMS: Under the Safe Employment Act, Oregon has adopted a hazard communication standard that applies specifically to agricultural employers when a hazardous chemical is known to be present in the workplace in such a way as to expose workers under normal conditions of use or in a foreseeable emergency.

Hazard Communication Program — Farm employers must develop and put into operation a written hazard communication program specific to their workplace. It must include, among other things, (1) a list of all the hazardous chemicals in the workplace, and (2) a description of the methods for informing their workers about the hazards of non-routine tasks.

Product Labels — Employers must ensure that the product label that shipped with each hazardous chemical in the workplace is legible and displayed on the container in the work area. Pesticide application equipment such as spray tanks and backpack-type sprayers do not have to be labeled, as long as the pesticide handler still has access to the product label.

Safety Data Sheets — The employer must have a safety data sheet for each hazardous chemical used or present in the workplace, and to which workers may be exposed during normal work conditions or in an emergency. All such data sheets must be readily accessible to workers on all shifts.

Employee Information and Training — At the time of their initial assignment, or whenever a new hazard is introduced into their work area, the employer must provide training for the workers who are or may be exposed to a hazardous chemical. Training must include, among other information, (1) methods of detecting the presence or release of a hazardous chemical in the work area, (2) the physical and health hazards of the chemicals in the work area, and (3) the measures workers can take to protect themselves from the hazards involved, including appropriate work practices and personal protective equipment.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

● OREGON SAFE EMPLOYMENT ACT (ANHYDROUS AMMONIA)

TERMS: Under the Safe Employment Act, Oregon's consumer and business services department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Oregon's ammonia safety regulations are essentially the same as those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural establishments.

ENFORCEMENT: *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the *Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844)* at any time within 90 days after learning of the alleged violation.

TRANSPORTATION

● OREGON VEHICLE CODE (*WORKER TRANSPORT VEHICLES*)

TERMS: Any motor vehicle that is provided by an employer with 2 or more employees, and is used to transport one or more workers to and from their places of employment, must comply with detailed requirements in the vehicle safety code, briefly summarized here.

Construction and Equipment — Passenger cars, station wagons, trucks, buses and other motor vehicles used to transport workers must meet specifications related to coupling devices, lighting fixtures and reflectors, the motor exhaust system, rear-view mirrors, service and parking brakes, the steering mechanism, tires, warning and signaling devices, and windshield wipers.

Operating Rules — Employers are legally responsible for compliance with driving rules, and with regulations governing the loading and carrying of passengers and freight, maximum daily hours of service by drivers, minimum age and skill of drivers, physical condition of drivers, refueling, road warning devices, and the transportation of gasoline and explosives.

Passenger Safety — Vehicles must have properly designed or equipped emergency exits, fire extinguishers, first-aid kits, means of entry and exit, side walls, and tailgates or other means of securing freight and passengers.

ENFORCEMENT: *Vehicle Equipment Safety Standards Office, Division of Motor Vehicles, Oregon Department of Transportation, Salem, Oregon 97314 (503-986-4198).* DMV may inspect any vehicle subject to these provisions, and may order corrective action by the vehicle's owner whenever it finds a violation of minimum safety standards.

These provisions may also be enforced by the *Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Affairs, Salem, Oregon 97309 (503-378-3272; toll-free 800-922-2689).*

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage — Unless excluded by one of the exceptions noted below, farmworkers and most other workers in Oregon are entitled to receive no less than the state minimum wage for every hour of labor. The minimum wage rate varies according to location:

Effective July 1, 2017: \$10.00 in non-urban counties, \$10.25 in standard counties, \$11.25 in Portland Metro

Effective July 1, 2018: \$10.50 in non-urban counties, \$10.75 in standard counties, \$12.00 in Portland Metro

Effective July 1, 2019: \$11.00 in non-urban counties, \$11.25 in standard counties, \$12.50 in Portland Metro

Effective July 1, 2020: \$11.50 in non-urban counties, \$12.00 in standard counties, \$13.25 in Portland Metro

Effective July 1, 2021: \$12.00 in non-urban counties, \$12.75 in standard counties, \$14.00 in Portland Metro

Effective July 1, 2022: \$12.50 in non-urban counties, \$13.50 in standard counties, \$14.75 in Portland Metro

Beginning July 1, 2023, and on July 1 each year after that, the standard-county minimum wage will be adjusted to reflect any annual increase in the cost of living. The non-urban minimum will be set at \$1.00 per hour less than the standard rate, and the Portland Metro rate will be \$1.25 over the standard rate.

In applying the minimum wage, employers may deduct the fair-market value of lodging, meals or other facilities or services furnished for the private benefit of their workers.

Exceptions — The state minimum wage *does not apply* to the following categories of farmworkers:

- (1) Workers employed as hand harvest or pruning laborers who are (a) paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, and (b) working for an employer who did not use more than 500 worker-days of piecework-paid farm labor during any calendar quarter of the preceding calendar year.
- (2) Hand-harvest or pruning workers who (a) are paid on a piecework basis in an operation generally recognized as a piecework operation in the region of employment, (b) commute daily from their permanent residence to the farm job site, and (c) were employed in agricultural labor less than 13 weeks during the preceding calendar year.

- (3) Hand-harvest workers who (a) are 16 years of age or younger, (b) are paid on a piece-rate basis in a recognized piecework operation, and (c) are paid at the same piece rate as workers over the age of 16 on the same farm.

ENFORCEMENT: *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232 (971-673-0844).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE PAYMENT AND COLLECTION LAWS

TERMS:

Method of Payment — In general, an employer may pay wages (1) by check or other non-cash medium, payable without discount in lawful U.S. money on demand, at a place of business in the county where the employee lives or works, (2) by direct deposit to a financial institution of the employee's choosing, or (3) using an ATM card, payroll card or other means of electronic transfer, provided the employee is able to make an initial withdrawal of the entire amount of net pay without cost, or choose some other payment method that involves no cost to the employee.

Paydays and Pay Periods — Every employer must establish a regular payday on which all employees are paid their earnings. Paydays may not be spaced more than 35 days apart.

Wages at Termination — Whenever an employer lays off or fires a worker or the worker quits, all unpaid wages become due and payable not later than the next business day.

Seasonal Farmworker Exception — A worker employed as a seasonal farmworker is generally entitled to final wages immediately. However, when termination occurs at the end of the harvest season and the worker is employed by a farmworker camp operator and lives in a licensed camp cost-free, final wages are payable by noon on the day after termination. A seasonal farmworker who quits the job without giving at least 48 hours' notice of intention to quit is entitled to receive final pay within 48 hours after termination or on the next regularly scheduled payday, whichever is earlier.

Deductions — An employer is prohibited from withholding, deducting or diverting any portion of a worker's wages unless the deduction (1) is required by law, (2) is authorized in writing by the worker, payable to someone other than the employer, and recorded in the employer's books, or (3) is authorized under a union contract.

Pay Statements — Each time a worker is paid, the employer must furnish the worker with a written statement itemizing total earnings and each deduction.

Annual Pay Statement — At the request of an employee or former employee, any employer who uses 5 or more workers in any calendar month must, by March 10 of each year, give the employee a statement showing the total compensation paid during the previous calendar year.

ENFORCEMENT: *Wage and Hour Division, Oregon Bureau of Labor and Industries, Portland, Oregon 97232.*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a wage claim, participated in a proceeding, or exercised any other right afforded by these provisions.

● PERSONAL INCOME TAX ACT OF 1969

TERMS: Farm operators and other agricultural employers are generally required to withhold state income tax from their employees' wages. Employers must regularly forward withheld taxes to the state and notify their employees of the amounts withheld and reported.

Exception — State income tax withholding *does not apply* to any worker employed in the planting, cultivation or harvest of seasonal agricultural crops and paid less than \$300 total wages for the year.

ENFORCEMENT: *Compliance Section, Personal Tax and Compliance Division, Oregon Department of Revenue, Salem, Oregon 97301 (503-945-8440; toll-free 800-356-4222).* A worker who believes that state income taxes have been improperly deducted from wages, or incorrectly reported to the state, should contact the Department.

SPECIAL NOTE: Even though some farmworkers may not have to have state income tax withheld from their wages, they may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Pennsylvania

CHILD LABOR

● CHILD LABOR ACT

TERMS:

Minimum Age — With almost no exceptions, employment of children under 14 years of age is prohibited.

Hours Limitations —

Children Age 14 and 15 — No child 14 or 15 years of age may be employed before 7:00 a.m. or after 7:00 p.m. (except during summer vacation periods, when work is allowed between 7:00 a.m. and 10:00 p.m.). Furthermore, 14- and 15-year-olds generally may work no more than 3 hours on a school day or 8 hours on a non-school day, no more than 18 hours during a school week or 40 hours in a non-school week, and no more than 6 days in a row.

Children Age 16 and 17 — When school is in session, 16- and 17-year-olds are not permitted to work before 6:00 a.m. or after 12:00 midnight (except on nights before non-school days, when they may work until 1:00 a.m.), and they are not allowed to work for more than 28 hours during a school week or for more than 8 hours in a single day. During school vacation periods, 16- and 17-year-olds may be employed for no more than 6 consecutive days, no more than 44 hours in a single week (or 48 hours, if the child agrees to it voluntarily), and no more than 10 hours in a single day.

Work Permits — Before anyone under 18 may be employed, the employer must obtain and keep on file a work permit, issued by the local school district on application by the minor's parent or guardian.

Rest Breaks — No one under the age of 18 may work for more than 5 hours straight without a rest break of at least 30 minutes. Any break time of less than a half-hour counts as part of the 5-hour work period.

Prohibited Occupations — The only farm-related occupations identified in the law as harmful to minors are stripping and sorting of tobacco, which are closed to workers under 16 years of age.

Recordkeeping — Employers must keep a list of all workers under the age of 18 who are employed in their establishments. The list must include a record of the hours worked by each child on each day and in each week, as well as their start- and end-times and the times allowed for breaks.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

The child labor provisions may also be enforced by the local school districts.

● SEASONAL FARM LABOR ACT (EMPLOYMENT OF MINORS)

TERMS:

Forced Labor — No child under the age of 14 may be required to work as a seasonal farmworker, or penalized for failure to work as a seasonal farmworker.

Hours Restriction — On any regular school day in the district where the child is residing, no child from age 14 through age 17 may be employed in seasonal farmwork between 7:00 a.m. and one hour after the end of the school day of the local district where the child lives. This restriction applies whether or not the child is registered as a student in that district.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

Under the state child labor laws, the local school districts have the same enforcement authority as the Department of Labor and Industry.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● ACT OF JUNE 23, 1931**TERMS:**

School Attendance in the Home State — A child who is under 16 years old and not a permanent resident of Pennsylvania may not be employed in any cannery, or in the cultivation or harvesting of berries, fruits or vegetables, during the time the child is required to attend school in his or her home state.

Exception — If a child is working legally in Pennsylvania at a time when school is out for the summer in the home state, the employer has 15 days to terminate the child's employment starting on the date the child is required to return to school after the summer vacation period at home ends.

Age Certificate from the Home State — Cannery operators and farm employers in Pennsylvania are generally forbidden from employing non-resident workers under 16 unless the employer has on file a certificate issued by the local school district in the child's home state, certifying the child's age and the exact periods during which the child is required to attend school there.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

Under the state child labor laws, the local school districts have the same enforcement authority as the Department of Labor and Industry.

● PUBLIC SCHOOL CODE OF 1949 (COMPULSORY SCHOOL ATTENDANCE)

TERMS: In general, every child living in Pennsylvania who is at least 8 years old but not yet 17 is required to attend a day school. Every parent or other person having control of such a child is legally responsible for sending the child to school for the entire local public school term.

Exceptions — The compulsory attendance law does not apply to (1) a child 14 years of age who is employed in agriculture under a valid work permit issued by the local school district and who has satisfactorily completed the elementary grades, or (2) a child age 15 or over who is employed in farmwork under a work permit, regardless of educational attainment.

ENFORCEMENT: The school attendance laws are enforced by the local school districts, through attendance officers employed for that purpose.

● PUBLIC SCHOOL CODE OF 1949 (EMPLOYMENT OF CHILDREN)**TERMS:**

Employment Certificates and Permits — It is illegal to employ a child under the age of 18 during public school hours, unless the employer has on file a general employment certificate, or a farm or domestic service permit, issued by the local school district.

Reporting — Twice a year, anyone employing a child between the ages of 14 and 18 must submit to the school district where the child resides a written report showing the child's name, age, and place of residence, and the name of the child's parent or guardian.

Posting — Anyone who employs a child 14 to 18 years old during public school hours and during the local school year must post in plain sight at the workplace a list of all such children, giving each child's name, age, place of residence, name of parent or guardian, the date of issuance of the employment certificate, and the name of the issuing party.

ENFORCEMENT: These provisions are enforced by the local school districts.

● WORKERS' COMPENSATION ACT (MINORS ILLEGALLY EMPLOYED)

TERMS: A worker under 18 years of age who, at the time of an accidental injury on the job, was employed or allowed to work in violation of the state child labor laws, is generally eligible to collect $1\frac{1}{2}$ times the normal amount of workers' compensation benefits for such an injury.

This provision applies to minors employed in agriculture only if the employer (1) pays at least \$1,200 to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for at least 30 days of farm labor during the year.

ENFORCEMENT: *Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383).* The Department may respond to the petition of any worker — including a minor employed contrary to the child labor laws — who requests a hearing and determination regarding workers' compensation which has not been paid in accordance with the law.

CIVIL RIGHTS

● EQUAL PAY LAW

TERMS: In general, it is illegal for an employer in Pennsylvania to pay wages to one worker at a rate less than the rate paid to workers of the opposite sex at the same establishment, for essentially equal work requiring essentially equal skill.

Exception — This law applies only to workers who are not already protected by the federal Equal Pay Act (*see entry, U.S. — Civil Rights*). For that reason, the law against sex discrimination in the payment of wages *does not apply* to farm operators and other agricultural employers in Pennsylvania who used more than 500 worker-days of agricultural labor in any calendar quarter of the previous year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination occurring from January through March, April through June, July through September, or October through December).

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. Any such action must be commenced no later than 2 years after the discrimination took place.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any worker as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● SEASONAL FARM LABOR ACT (*EQUAL PAY*)

TERMS: With only limited exceptions, no employer of seasonal farm labor may pay wages to such workers at a rate less than the rate the employer pays to workers of the opposite sex for equal work, on jobs whose performance requires equal skill, effort and responsibility, and which are performed under similar working conditions.

The term "seasonal farm labor" refers mainly to workers employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of farm crops before processing. It also includes workers who live in housing owned, rented or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

Workers who commute daily from their permanent residence to the worksite are not regarded as seasonal farmworkers, unless transportation is furnished to such individuals by a farm labor contractor.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● SEASONAL FARM LABOR ACT (*DRINKING WATER AND TOILETS IN THE FIELD*)

TERMS: Each employer of seasonal farm labor in Pennsylvania must provide drinking water in the working area and toilet facilities within a reasonable distance. The term "seasonal farm labor" generally means either of the following:

- (1) A person employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of farm crops.
- (2) A person who lives in living quarters owned, leased or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

Unless transportation is furnished to them by a farm labor contractor, the term *does not include* workers who commute daily from their permanent residence to the worksite.

Drinking Water — On all premises where seasonal farmworkers are employed, the employer must provide a sufficient supply of cool, sanitary drinking water at a reasonable distance from the working area. The regulations require at least one drinking fountain, plus 10 gallons of water, for each 100 workers or each crew. Containers used to supply water must meet prescribed sanitation standards. The use of common drinking cups is prohibited.

Toilet Facilities — In general, on all premises where seasonal farmworkers are employed, the employer must provide:

- (1) At least one toilet within 1,000 feet of any work area where up to 10 such workers are employed.
- (2) One toilet within 500 feet of any work area where 11 to 15 workers are employed.
- (3) One toilet for every 15 males or fraction thereof, plus one toilet for every 15 females or fraction thereof, within 500 feet of any work area where 16 or more workers are employed.

As an alternative, the employer may offer a written agreement, in the workers' native language, to provide the workers with transportation to a toilet facility at least once during every 4 hours of work time.

ENFORCEMENT: *Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315).* A seasonal farmworker or representative of seasonal workers who has knowledge of a violation of the sanitation provisions of the Act may request an inspection by the Department.

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

HOUSING

● SEASONAL FARM LABOR ACT (*SEASONAL FARM LABOR CAMPS*)

TERMS: The Seasonal Farm Labor Act, among other things, regulates the operation of seasonal farm labor camps in Pennsylvania. Briefly, a farm labor camp is any living quarters intended for use by workers employed seasonally or temporarily in the planting, cultivation, harvest, sorting or packing of farm crops before processing, or housing operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

Permits — It is illegal for anyone to operate a seasonal farm labor camp, or allow such a camp to be occupied, without first obtaining a permit from the state to do so. Application for a permit must be made at least 60 days prior to occupancy. Permits are valid for one year from the beginning month of operation.

Inspection — The state enforcement agency will not issue or renew a permit until an inspection is completed and the agency finds that the camp meets the standards discussed below. The camp may also be inspected from time to time thereafter.

Minimum Standards — To provide for safe, healthful and sanitary living conditions, the state has adopted detailed standards that seasonal farm labor camps must comply with as a condition for occupancy and continued operation. Among other factors considered in determining if a housing facility meets the standards are these:

- The condition of the housing site
- The condition of the housing structures
- The adequacy of the space to accommodate the number of residents
- Lighting and electrical facilities
- The water supply
- The sewage disposal system
- Cooking and eating facilities
- Toilet facilities
- Bathing facilities
- Laundry facilities
- Sleeping accommodations
- Trash collection equipment and procedures
- Heating equipment
- Pest control equipment and measures
- Safety equipment and emergency escape facilities
- Restrictions on storage of hazardous materials

ENFORCEMENT: *Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315).* Any seasonal farmworker or representative of seasonal farmworkers who believes a farm labor camp is in violation of the Act may request an inspection by the Department. At the request of the worker, the worker's name may be kept confidential until such time as formal enforcement proceedings, if any, are brought against the camp owner.

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

● SEASONAL FARM LABOR ACT (*FARM LABOR CAMP ACCESS AND ENTRY*)

TERMS:

Tenancy Rights — A seasonal farmworker who lives in any structure or property that is owned, leased or operated by an employer or farm labor contractor, and which is occupied for at least 6 months in a calendar year, has the right to 3 days' notice before being evicted from the housing, or 2 weeks' notice if the worker lives on the property with one or more dependents. This right applies for as long as the worker lives in the housing, whether or not the employer or contractor charges rent for its use.

Access Rights — It is illegal for anyone to keep a person from freely entering or leaving a seasonal farm labor camp, if that person is:

- (1) A guest of an occupant of the camp.
- (2) An employee or volunteer from a private organization whose main interest in visiting the camp is the health, safety, welfare or dignity of seasonal farmworkers.
- (3) A representative of a federal, state or local government agency.
- (4) An individual, group or public agency whose purpose is to provide a service to the owner of the camp rather than to the camp's occupants.

Reasonable access by such persons to the grounds of a labor camp may not be denied, interfered with or limited, either by putting up a fence or other barrier, by using physical force or violence, by posting a written notice, or by issuing a verbal order.

ENFORCEMENT: *Farm Labor Camp Housing Program, Bureau of Food Safety and Laboratory Services, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-787-4315).* Any resident of a farm labor camp who has been unlawfully evicted or denied visitation by a guest or other authorized visitor, or any authorized person who has been denied entry to a camp, may file a complaint with this agency.

Instead of filing a complaint with the Department, anyone who has been removed from or denied visitation or access to a farm labor camp in violation of these provisions has the option of filing a lawsuit against the camp owner or operator, using a private attorney or a public legal services program.

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some portion of a day in 20 different weeks this year or last, must pay taxes to the state unemployment compensation fund.

At the same time, each person who works for such an employer is required to contribute seven-tenths of one percent of his or her wages to the fund also. Workers' contributions must be withheld from their earnings by the employer, who is responsible for reporting and forwarding withheld amounts to the state. The state credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment insurance benefits if they have accumulated the necessary wage credits and meet the program's other eligibility rules. In addition to regular benefits, UI recipients may also qualify for a cash allowance for dependents.

ENFORCEMENT: *Office of Unemployment Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-3907).* An application for unemployment compensation may be downloaded and filed by mail, but the recommended method is to file a claim online, at www.uc.pa.gov.

SPECIAL NOTE: For workers who have earnings from certain seasonal employment in the commercial canning or freezing of fruits and vegetables, there are special rules for determining eligibility for and the amount of UI benefits. As a general rule, wages paid by a seasonal canning or freezing establishment do not count as part of a worker's necessary wage credits except when the worker becomes unemployed during the establishment's normal seasonal period of operation.

● WORKERS' COMPENSATION ACT

TERMS: A farm operator or other agricultural establishment that pays wages of \$1,200 or more to any one worker during the year for agricultural labor, or employs any one worker for 30 or more days of farm labor during the year, must provide workers' compensation coverage for all its employees.

In turn, farmworkers who are injured in a job-related accident while working for such an employer are entitled to medical care, medicines and related services at the employer's expense, and if the injury leads to the disablement or death of the worker, the employer is responsible for paying cash benefits to the worker or the worker's dependents to compensate for lost income.

Most employers meet these obligations by purchasing workers' compensation insurance.

ENFORCEMENT: *Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383).* Normally, a workers' compensation claim is not valid unless the injured worker notifies the employer of the injury within 120 days after it occurs.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● SEASONAL FARM LABOR ACT (*FARM LABOR CONTRACTOR REGISTRATION*)

TERMS:

Registration — In general, no one may act as a farm labor contractor without first obtaining a certificate of registration from the state. In brief, the law defines a farm labor contractor as any person who, for pay or profit, recruits, hires, supplies or transports 5 or more seasonal farmworkers in any calendar year for employment in agriculture or in an agriculture-related industry.

Recordkeeping — Every farm labor contractor must keep payroll records on each worker recruited, employed or supervised, including such information as the worker's name and Social Security number, total wages earned, the number of hours worked, and hourly or piecework wage rates.

Prohibited Acts — Among other unlawful acts defined in the law, it is illegal for a farm labor contractor:

- (1) To knowingly give a worker any false or misleading information, or to withhold important information, concerning the availability of work, wages, any arrangements for the furnishing of meals, housing and transportation, or other terms of employment, in order to get the worker to accept or reject a job offer.
- (2) To receive, distribute or withhold any wages or other compensation for the services of a worker, except as authorized by the law's wage payment provisions (*see entry, Pennsylvania — Wages and Hours*).
- (3) To charge a worker for goods or services provided by the contractor, except (a) a reasonable charge for transporting the worker, the worker's family and their possessions between the place of residence or recruitment and a job site, or from one job site to another, and (b) a reasonable charge for meals.
- (4) To fail to correctly notify the worker, at the time of recruitment or negotiation of any contract, regarding transportation and meal charges.
- (5) To sell or distribute any alcoholic beverage without a state license or permit.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PENNSYLVANIA PESTICIDE CONTROL ACT OF 1973

TERMS:

Licensing of Businesses — Every individual or company that engages in the business of applying pesticides for hire must have a license issued by the state. Among other licensing conditions, the applicant must post a bond or have liability insurance or similar financial security to cover possible damages caused by the use of pesticides. Likewise, each pesticide application business must employ at least one certified applicator, an individual who has been examined by the state agency and found competent to apply pesticides safely and effectively.

Registration of Technicians — Non-certified employees of a business involved in applying pesticides to someone else's property may apply pesticides only under the direct supervision of a certified applicator. Such employees must be registered as application technicians if they use pesticides where a certified applicator is not physically present on the site. Each year, application technicians must attend training in pest identification, proper use of pesticides, use and maintenance of equipment, use of protective gear, pesticide transportation and disposal, and state and federal pesticide regulations.

Certification of Private Applicators — Farm operators and others who use restricted pesticides non-commercially on their own property must be certified by the state as private applicators. Certification requires, among other conditions, passing a written examination covering product labeling, safety and health, environmental protection, pests, pesticides, equipment, application techniques, pesticide laws, and related subjects.

Prior Notifications — Commercial applicators planning to apply a restricted pesticide for an agricultural purpose generally must either (1) publish a notice of the proposed application in two newspapers in the affected area, (2) individually notify people living next to the treatment area, at least 18 hours before the application, or (3) post signs at entry points and along property borders, at least 18 hours prior to the application. Signs must remain posted until the expiration of any restricted-entry period specified on the pesticide label.

ENFORCEMENT: *Division of Health and Safety, Bureau of Plant Industry, Pennsylvania Department of Agriculture, Harrisburg, Pennsylvania 17110 (717-772-5214).*

● WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

TERMS:

Posting — With few exceptions, every employer is required to post in a location clearly visible to each employee (1) a list of all hazardous substances found in the workplace, and (2) a notification advising the workers of their right to written information and training about such substances.

Availability of Information — Within 5 days of a written request, an employer generally must provide an employee with a document, known as a "material safety data sheet," on each hazardous substance present at the worker's place of employment. If the employer fails to respond to the request, the worker has the right to refuse to work with the hazardous substance involved, without penalty, until the information is provided.

Description of Information — Among other things, the safety data sheet must contain the name of the product, its chemical and physical characteristics, the health and safety hazards posed by the substance, the symptoms of overexposure, emergency first-aid procedures, and the personal protective equipment to be worn and other precautions to be followed.

Educational Program — At least once a year, employers must provide an education and training program for workers exposed to hazardous substances in their normal work area. The program may be in written or verbal form, but in either case must cover such topics as the location of each hazardous material in the workplace, its properties, its chemical and common names, its health effects, the symptoms of overexposure, appropriate personal protective equipment, conditions for safe use, appropriate emergency treatment, and emergency procedures for dealing with spills and other accidents.

ENFORCEMENT: *Health and Safety Division, Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-772-1635).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

TRANSPORTATION

● SEASONAL FARM LABOR ACT (*TRANSPORTATION OF WORKERS*)

TERMS: Under the Seasonal Farm Labor Act, the state labor secretary has adopted rules related to the transportation of seasonal farmworkers. The rules apply to any individual or business that uses a motor vehicle (other than a passenger car or station wagon) to transport 3 or more seasonal farmworkers at any one time to or from farm employment in Pennsylvania, provided the workers are not year-round employees and are living somewhere other than in their permanent home.

Driver Qualifications — A person who drives a farm labor vehicle must be at least 21 years of age, must have at least one year's driving experience through all four seasons, and must be able to read and speak enough English to understand highway traffic signs and respond to directions or questions from officials. The driver must have a valid license or permit authorizing operation of the type of vehicle being used to transport workers. Likewise, no individual may drive a vehicle used to transport farmworkers unless the individual meets the physical qualifications described in the rules, and must have a doctor's certificate confirming that.

Vehicle Equipment — Every vehicle used to transport workers must be equipped with parts, accessories and devices that meet prescribed standards and are in good working order. These include seats, exits, lighting devices and reflectors, brakes, coupling devices, tires, horn, windshield wipers, rear-view mirrors, heaters, fire extinguisher, and road warning devices. All doors, tailgates, tarps and other such equipment must be securely in place before the vehicle is driven.

Passenger Health and Safety — Passengers must be provided with a reasonable rest stop at least once between meal stops. Meal stops are required no less often than every 6 hours, and each meal period must be at least 30 minutes in length. For trips of more than 600 miles in a truck, the vehicle must be stopped for a period of at least 8 consecutive hours before or upon completion of 600 miles' travel. Passengers must be protected from weather conditions such as rain, snow or sleet. Drivers must observe strict rules regarding fire safety.

Maximum Driving Time — No one may drive a farm labor vehicle for more than 10 hours in any period of 24 consecutive hours, not counting rest and meal stops. Once a driver reaches the 10-hour limit, he or she must be allowed 8 consecutive hours' rest before being allowed to drive again.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

WAGES AND HOURS

● SEASONAL FARM LABOR ACT (*WAGES AND HOURS*)

TERMS:

Minimum Wage — Every employer of seasonal farmworkers must pay each such worker at least \$7.25 for every hour of labor. In any given workweek, the earnings of each seasonal farmworker paid on a piece-rate basis must amount to no less than \$7.25 multiplied by the number of hours the worker was employed during the week.

The minimum wage applies to minors to the same extent as adult workers, and piecework-paid workers under the age of 18 must be paid at the same piece rates paid to adults performing the same operations.

Coverage — As used here, the term "seasonal farmworker" refers mainly to workers employed on a seasonal or temporary basis in the planting, cultivation, harvest, sorting or packing of farm crops before processing. It also includes workers who live in housing owned, rented or operated by an employer or farm labor contractor and occupied by 4 or more unrelated persons.

Exception — These provisions *do not apply* to workers who commute daily from their permanent residence to the worksite, unless transportation is provided to such individuals by a farm labor contractor.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

● SEASONAL FARM LABOR ACT (*HOURS OF LABOR*)

TERMS:

Maximum Hours — No seasonal farmworker may be required to work, or be penalized for failing to work, for more than 6 days or more than 48 hours in any one week, or for more than 10 hours in any one day. Where a worker is employed by more than one employer on any day or in any week, the combined number of hours during which the individual may be required to work may not exceed 48 hours in any one week or 10 hours in any one day.

Meal or Rest Periods — An employer of seasonal farm labor is prohibited from requiring a worker to work for more than 5 hours straight (including any break lasting less than a half-hour) without a meal or rest period of at least 30 minutes. The employer does not have to pay the worker for meal or rest periods.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

● SEASONAL FARM LABOR ACT (*WAGE PAYMENTS*)

TERMS:

Paydays — Every employer of seasonal farm labor must pay the wages of such workers on regular paydays designated in advance, but in no case more than 7 days after the end of the week in which the wages were earned.

Final Wages — When a seasonal farm job ends, final earnings must be paid in full by the end of the next business day. Method of Payment — Lawful U.S. currency or check are the only allowable means of payment.

Deductions from Wages — Employers of seasonal farm labor are allowed to withhold from a worker's wages only (1) employment taxes required to be withheld under state or federal law, (2) authorized union dues, (3) payments for employee benefits approved in writing by the worker, (4) reasonable charges for housing and meals provided by the employer, and (5) amounts required to repay advances made by the employer under a prior agreement with the worker.

Pay Statements — At the time of payment, employers must provide each seasonal farmworker with a written statement showing the hourly or piecework wage rate, the number of hours worked, the units of work performed (if paid on a piecework basis), the amount of gross earnings, and any amounts withheld for any purpose whatever.

Wage Payments by a Labor Contractor — An employer of seasonal farm labor may not permit a farm labor contractor to pay wages on the employer's behalf unless the employer furnishes to each worker, and posts at an accessible location at the workplace, a statement showing the wage rates to be paid and other terms of employment agreed upon prior to hiring. If this condition is met, the employer may utilize a contractor as an agent for wage payment purposes, and the contractor becomes responsible for complying with the requirements outlined above.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).* A seasonal farmworker who does not receive pay in accordance with these provisions may file a complaint with the Department.

SPECIAL NOTE: Interference with, harassment of, eviction of, or termination of the employment of any seasonal farmworker for having filed a complaint under the Seasonal Farm Labor Act is punishable as a criminal offense.

● WAGE PAYMENT AND COLLECTION LAW

TERMS:

Paydays — Farm operators and other employers must pay their workers' earnings (other than any bonuses) on regular paydays designated in advance. Unless specified otherwise in a written employment contract, wages are generally payable within 15 days after the end of the pay period in which they are earned.

Bonuses, on the other hand, must be paid within 10 days after the end of the job or other due-date; where no required time for payment was specified, bonuses are payable within 60 days after the worker demands payment. All wages of any kind must be paid in lawful U.S. money or by check.

Notification — It is the employer's duty to notify each worker at the time of hiring as to the time and place of payment, the rate of pay, and any benefits or bonuses to be paid. Workers are also entitled to advance notice of any change in these conditions. Such notifications may be provided by posting the required information at the employer's place of business.

Final Wages — When a job ends, for whatever reason, workers' final wages are due no later than the next regular payday on which the earnings would otherwise be paid.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).* Workers (or their representatives) may request the Department to take legal action on their behalf to collect any claim for unpaid wages, provided action is started within 3 years after such wages were originally payable.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to collect unpaid wages, using a private attorney or a public legal services program.

● MISCELLANEOUS LABOR LAWS (SEMI-MONTHLY PAYMENT OF WAGES)

TERMS: Unless a different wage payment schedule is agreed to at the time of hire, employers in Pennsylvania must pay their employees (other than those paid an annual salary) no less often than twice a month. The first payment must occur between the 1st and the 15th day of each month, the second between the 15th and the last day.

ENFORCEMENT: *Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17120 (717-787-4763; toll-free 800-932-0665).*

● TAX REFORM CODE OF 1971 (PERSONAL INCOME TAX)

TERMS: With few exceptions, every farm employer in Pennsylvania is required to deduct state income taxes from each worker's earnings and periodically forward the withheld amounts to the state, along with a withholding report.

By January 31 of the following year, the employer must provide the worker with a written statement showing the total amount of wages paid and the total amount withheld as tax throughout the preceding calendar year.

ENFORCEMENT: *Bureau of Business Trust Fund Taxes, Pennsylvania Department of Revenue, Harrisburg, Pennsylvania 17128 (717-787-1064).* A worker who has reason to believe that state income tax is being improperly withheld from wages, or incorrectly reported or remitted to the state, should promptly contact the Department.

Puerto Rico

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Age and Hour Limitations —

Children Under Age 14 — With few exceptions, children under the age of 14 may not be employed in agriculture or any other industry at any time.

Children Age 14 and 15 — Children 14 and 15 years of age are forbidden to work during the hours in which the public schools are in session. Outside school hours and during school vacations, 14- and 15-year-olds may be employed in agriculture and most other industries for up to 6 consecutive days and up to 40 hours in any one week, and for up to 8 hours in any one day. Employment is not authorized before 8:00 a.m. or after 6:00 p.m. On any school day, the combined hours of class time and employment, if any, may not exceed 8 hours.

Children Age 16 and 17 — In agriculture as in most other sectors, no child 16 or 17 years of age may work before 6:00 a.m. or after 10:00 p.m., and those attending school and working after class on school days are limited to a combined total of 8 hours of school and work time.

Injurious Occupations — Among other agriculturally related activities, no one under the age of 18 may be employed to cut sugarcane, to operate power-driven mowers, to drive or assist in driving a tractor or other vehicle, or to perform work at a height of more than 5 feet, or in a job requiring the use or handling of pesticides and similar agricultural chemicals. Similarly, minors under 16 years of age may not be employed in the cutting, lashing or binding of tobacco, in irrigating with chemicals, in spraying chemical fertilizers, or in weeding operations.

Employment Certificates — Except in the harvest of coffee, children 14 through 17 years of age generally are not permitted to work in agricultural and most other gainful occupations unless the employer obtains and keeps on file an employment certificate from the enforcement agency, and conspicuously posts at the workplace a list of all minors employed at his or her establishment. Minors hired to pick coffee must carry and present to the employer a card, issued by the department in lieu of an employment certificate, indicating that the child is at least 14 years old and in sound physical condition.

Lunch Periods — No minor may be employed for more than 4 consecutive hours without being allowed at least one hour for lunch.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

● COMPULSORY ATTENDANCE LAW

TERMS: With few exceptions, all children between the ages of 8 and 14 must be enrolled in a public school located within a reasonable distance of their home.

ENFORCEMENT: The compulsory attendance law is enforced at the local level by teachers, supervising principals and social workers.

Whenever informal efforts to enforce attendance are unsuccessful, local authorities may notify the *Department of Family, San Juan, Puerto Rico 00917 (800-981-8333).*

● CHILD LABOR LAWS (COMPULSORY SCHOOL ATTENDANCE)

TERMS: Every parent or other person having charge of a minor under 16 years of age must assure the child's regular attendance at a public or private school during regular school hours and for the entire length of the public school term, unless the child is found to be mentally unfit to attend and is excused by the school supervisor.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

● COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT (RIGHTS OF MINORS)

TERMS: A worker under the age of 18 who is injured in a job-related accident while working in violation of the child labor laws is entitled to *twice* the amount of workers' compensation benefits normally payable for such an injury. As a penalty for using unlawful child labor, the employer rather than the State Insurance Fund is responsible for paying the extra compensation.

ENFORCEMENT: *State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959).* Even if employed contrary to the child labor laws, a minor who is injured on the job should report the accident to the employer, who is responsible for appropriate medical treatment.

The agency responsible for hearing and ruling on workers' compensation appeals is the *Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545).*

CIVIL RIGHTS

● EMPLOYMENT DISCRIMINATION LAW

TERMS: It is illegal for an employer to use age, race, color, sex, social or national origin, social condition, political affiliation, or political or religious ideology as the basis for refusing to hire or rehire a job applicant, firing or laying off a worker, discriminating against a worker with respect to pay or the terms or conditions of work, or limiting or classifying employees in a way that tends to deprive a person of job opportunities or affects a person's employment status. Employment discrimination against a person for being a victim — or *perceived* as a victim — of domestic violence, sexual aggression or stalking is similarly illegal.

Employers and labor organizations are generally prohibited from publishing or circulating any announcement which denies job opportunities on grounds of age, race, color, sex, social or national origin, social condition, political affiliation, or political or religious ideology, or for being a victim — or *perceived* as a victim — of domestic violence, sexual aggression or stalking.

ENFORCEMENT: *Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

Regardless of enforcement action by the Department, a worker who has been subjected to illegal employment discrimination may take legal action against the violator directly, using a private attorney or a public legal services program.

● SEX DISCRIMINATION IN EMPLOYMENT LAW

TERMS: Men and women in Puerto Rico are guaranteed an equal right to employment, in all industries and occupations. With few exceptions, it is unlawful for an employer to commit any of the following discriminatory acts:

- (1) To suspend, fire or refuse to hire a person, or to discriminate against a person with respect to wages, employment terms or working conditions, on account of the person's sex.
- (2) To limit, segregate or classify employees or job applicants in any way that could deprive anyone of a job opportunity, or negatively affect employment status, on account of the individual's sex.
- (3) To circulate a job notice or employment advertisement that indicates any preference or specification as to sex.
- (4) To offer or provide employment benefits to workers of one sex (or to their spouses and dependents) under conditions different from those that apply to benefits offered or provided to workers of the opposite sex (or to their spouses and dependents).

Similar discriminatory acts by employment agencies and labor unions are also illegal.

ENFORCEMENT: *Antidiscrimination Unit, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).* A person who has been subjected to prohibited employment discrimination based on sex may file a complaint with the Department.

As an alternative to filing a complaint with the Department, a worker who has been subjected to employment discrimination based on sex may take legal action against the employer directly, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, punish or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE PAYMENT LAWS (UNLAWFUL WAGE AND HOUSING RESTRICTIONS)

TERMS: It is illegal for an employer to dictate where or how workers may spend their wages, or to fire workers for having spent their pay at a certain place, in a certain way, or with a specified person. Likewise, employers may not force their workers to live on the employer's property.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).* A worker who is aggrieved by an alleged violation of these provisions may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction.

● WAGE PAYMENT LAWS (DISCHARGE WITHOUT GOOD CAUSE)

TERMS:

Penalty for Firing Without Good Cause — In addition to any wages due, a worker who is fired without good cause is entitled to receive from the employer *both* of the following:

- (1) An additional 3 months' pay as restitution, provided the worker has completed the applicable probationary period.
- (2) Additional compensation equivalent to 2 weeks' pay for each accrued year of service.

In no case may the additional compensation exceed 9 months' pay.

Meaning of "Good Cause" — Discharge generally may not be deemed for good cause unless it is predicated on at least one of the following:

- (1) A pattern of improper or disorderly conduct by the worker.
- (2) Inefficient, negligent, tardy or poor job performance by the worker.
- (3) The worker's repeated violation of written work rules.
- (4) Full, temporary or partial closure of the employer's establishment.

- (5) Technological changes or reorganization of the establishment.
- (6) Changes in the product produced.
- (7) A general workforce reduction.

Burden of Proof — It is generally up to the worker to prove that termination was without just cause.

ENFORCEMENT: To collect the penalties for dismissal without good cause, a worker must take legal action against the employer involved within one year after the date of termination, using a private attorney or a public legal services program.

SPECIAL NOTE: The summary above includes certain changes in the law brought about by the Labor Transformation and Flexibility Act. Some of the changes apply only to workers hired after the new law went into effect, on January 26, 2017, but workers hired before that date generally are entitled to the same rights and benefits that applied to them before.

● MISCELLANEOUS LABOR LAWS (*COMMISSARIES AND CASH ADVANCES*)

TERMS: In general, it is illegal for any person who employs more than 10 workers to operate or own any part of a business which sells food, clothing, tools or other goods to the person's employees. Likewise, an employer may not directly or indirectly make any loan or cash advance to a worker so that the worker can purchase goods from a particular store or business dictated by the employer.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).* A worker who is forced by an employer to buy goods or merchandise from the employer, or from a particular establishment identified by the employer, should report the matter to the Department.

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any safety and health regulations that apply to their operations.

More specifically, the Puerto Rico labor secretary has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).*

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

● OCCUPATIONAL SAFETY AND HEALTH ACT (*FIELD SANITATION*)

TERMS: Under Puerto Rico's occupational safety and health law, the labor secretary has adopted regulations requiring certain agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to those farm employers that have 10 or more workers in the field on any given day.

ENFORCEMENT: *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).*

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

HOUSING

● OCCUPATIONAL SAFETY AND HEALTH ACT (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, Puerto Rico's labor secretary has adopted standards regulating temporary labor camps provided by employers for the use of their workers. The temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).*

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

INSURANCE AND COMPENSATION

● PUERTO RICO EMPLOYMENT SECURITY ACT

TERMS: Every farm operator or other agricultural establishment that employs one or more workers in agricultural labor must pay taxes to the Puerto Rico unemployment fund on their behalf. The administering agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits.

ENFORCEMENT: *Unemployment Insurance Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* Applications for unemployment compensation may be filed by telephone, at 787-945-7900.

SPECIAL NOTE: The summary above includes certain changes in the law brought about by the Labor Transformation and Flexibility Act. Some of the changes apply only to workers hired after the new law went into effect, on January 26, 2017, but workers hired before that date generally are entitled to the same rights and benefits that applied to them before.

● COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT

TERMS: Agricultural workers and other employees who are injured or disabled in an employment-related accident, or who are disabled by an occupational disease, have a right to necessary medical treatment, medicines and hospital services, as well as weekly cash disability payments to compensate for lost income. If death results from the injury or disease, benefits are generally payable to the worker's surviving dependents.

To cover the cost of workers' compensation, agricultural establishments and most other employers are required to pay premiums to the State Insurance Fund.

ENFORCEMENT: *State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959).* A worker who is injured in any way in connection with the job should notify the employer immediately, so that the employer may report the accident to the State Insurance Fund.

● INJURED MIGRANT WORKERS LAW

TERMS:

Assistance with U.S. Claims — When a migrant worker from Puerto Rico (1) is injured in a work-related accident or disabled by an occupational disease while employed in any state or territory of the United States, and (2) is unable to get back to the location where the accident happened to process a workers' compensation claim, the Industrial Commission of Puerto Rico may be able to help the worker get additional medical evidence, or take steps to facilitate processing of the claim.

Medical and Hospital Benefits — Migrant workers from Puerto Rico who are injured in a work-related accident or disabled by an occupational disease while working abroad under a contract of hire approved by Puerto Rico's labor secretary, and who require medical treatment and hospitalization on their return to Puerto Rico, are generally eligible for medical and hospital benefits provided under the Compensation System for Work-Related Accidents Act until their rehabilitation.

ENFORCEMENT: *Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545).* The Industrial Commission has a duty to assist injured workers returning home to Puerto Rico in obtaining workers' compensation benefits to which they may be entitled, as described above. The Commission is also responsible for handling appeals from workers denied services by the State Insurance Fund Corporation.

Assistance with requesting medical and hospital services on behalf of a worker who is injured outside Puerto Rico may be provided by the *Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180).*

● TEMPORARY DISABILITY BENEFIT ACT

TERMS: Except for motor vehicle drivers (who are covered by the law discussed in the next summary), agricultural workers who are disabled by an injury or illness not connected with employment are generally eligible for disability benefits if they have earned at least \$150 over a certain one-year reference period prior to applying for benefits.

Weekly disability payments for workers with earnings primarily in agriculture currently range from \$12 to \$55, depending on actual earnings during the reference period. When an injury not connected with employment results in loss of sight, loss of an arm or leg, loss of part of a hand or foot, or death, the worker or the worker's dependents may also be entitled to a one-time payment for dismemberment or death.

In contrast with other industries, agricultural employers and employees are not required to pay contributions to the disability benefit fund to help finance the program. Benefits for farmworkers are paid from the treasury of Puerto Rico.

ENFORCEMENT: *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* Disability claims may be filed at any local Employment Security office.

● CHAUFFEURS SOCIAL SECURITY LAW

TERMS:

Contributions — Every employer who hires any agricultural worker or other person who operates a motor vehicle in connection with the job, must withhold 50 cents each week from the worker's pay as dues to the Chauffeurs Social Security fund. Within 60 days after the end of each 3-month period during the year, the employer must send all such withheld amounts to the administering agency, along with the employer's share of contributions, which is set at 30 cents a week.

Benefits — Workers who have paid dues to the Chauffeurs Social Security fund for the minimum prescribed number of weeks and meet other eligibility requirements may qualify for up to 30 weeks of cash benefits for illness, a one-time payment for permanent and total disability, a one-time bonus upon voluntary retirement, and cash benefits in the event of the worker's death or the death of the worker's spouse or child.

Reinstatement to Employment — In the case of a worker's illness or non-permanent disability for which benefits are payable under these provisions, the employer is generally obligated to reinstate the worker within 30 days after he or she is discharged from treatment, provided that (1) the job still exists when the worker requests reinstatement, (2) the worker is mentally and physically able to perform the job, and (3) the request is made no later than one year after the onset of the disability.

ENFORCEMENT: *Temporary Disability Benefits Program, Bureau of Benefits for Chauffeurs and Persons with Non-Occupational Disability, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-625-7900).* Application for benefits may be made at any local Chauffeurs Social Security office.

If an employer fails to comply when a worker requests reinstatement to the job after a period of disability ends, the worker may take action in civil court to recover the wages he or she would have received if reinstated, as well as monetary damages.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY LAW

TERMS: In general, it is illegal for any person or company to offer or arrange employment for individuals seeking work, or to obtain workers for employers seeking help, unless the person or company has a license authorizing such activity. An employment agency license will not be issued unless the applicant is found morally and professionally qualified, and until the applicant has paid a license fee and posted a bond of at least \$3,000 covering losses or damages resulting from non-compliance with the law.

Among numerous other unlawful acts defined in the law, licensed employment agencies are forbidden from making any false promise or giving false information to a worker or employer, or from sending a worker to a job site where a strike or similar labor dispute is in progress without first advising the worker in writing that such a condition exists.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

● PUBLIC LAW 87

TERMS: Every person, organization or agent intending to recruit workers in Puerto Rico, for employment under contract outside Puerto Rico, must notify the labor secretary in advance concerning the recruitment effort. Among other details, the notification must specify the number of workers to be hired, the type of transportation to be used to get the workers to the job site, the name and address of the employer, the kind of work to be performed, the wages and other compensation to be paid, and the minimum guaranteed working hours. Recruitment is not permitted without the authorization of the secretary.

Anyone who recruits workers as described above is required to enter into a written contract with each such worker. The contract must contain certain minimum guarantees prescribed by the enforcement agency, and once the contract is approved, the agency is obligated to protect the worker's rights as spelled out in that document.

ENFORCEMENT: *Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180).*

LABOR RELATIONS AND UNION REPRESENTATION

● PUERTO RICO LABOR RELATIONS ACT

TERMS:

Workers' Rights — When employed by private employers and by public corporations operated as private enterprises, agricultural workers have the right to organize, to form, join and assist labor organizations, and to negotiate with their employers, through representatives of the workers' own choosing, over the terms and conditions of their employment.

Representation Elections — Whenever a question concerning representation of a group of workers arises, the agency responsible for administering the Act may order a secret-ballot election or take appropriate alternative measures to determine the will of the workers. A union designated or elected by a majority of the workers in a given place of employment is considered the exclusive representative of all the workers in the workplace, but an individual worker still has the right at any time to present individual complaints or concerns to his or her employer.

Prohibited Acts — Among other acts prohibited by this law, it is illegal for an employer (1) to interfere with workers in any way in the exercise of the rights outlined above, (2) to attempt to dominate or interfere with the formation or administration of a labor organization, or contribute support to a labor organization, (3) to attempt to encourage or discourage membership in a labor organization, (4) to refuse to negotiate with the representative of a majority of the workers in a particular establishment, or (5) to violate the terms of a union contract.

ENFORCEMENT: *Puerto Rico Labor Relations Board, San Juan, Puerto Rico 00919 (787-620-9545).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE ACT OF PUERTO RICO

TERMS:

Licensing — Any person or establishment that is in the business of applying pesticides commercially must have a license issued by the government of Puerto Rico to do so. Among other requirements, applicants for a license must post bond in an amount ranging from \$50,000 to \$100,000, to guarantee payment of any loss or damage caused by the business's pesticide operations.

Applicator Certification —

Private Agricultural Applicators — Anyone who uses restricted pesticides for farming must be certified as a private agricultural applicator. As conditions for certification, private applicators must (1) pass a test demonstrating practical knowledge of agricultural pests and pest control methods, and (2) show they can read and understand pesticide labeling information, apply pesticides in accordance with label instructions and warnings, recognize application problems that could cause environmental contamination, and recognize symptoms of pesticide poisoning and take effective measures in case of an accident.

Commercial Applicators — Persons who apply restricted-use pesticides for hire are required to be certified as commercial applicators. Among other requirements, commercial applicators must demonstrate general knowledge about pesticides and their hazards, and must pass a written exam covering such topics as plant pests, pesticide products and labeling, toxicity, application techniques, pesticide storage and disposal, protective equipment, environmental protection, accident prevention, and emergency treatment.

Accident Reporting — Every applicator must immediately report to the enforcement agency any accident where a restricted-use pesticide under the applicator's responsibility is involved.

Worker Protection — Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

Prohibited Acts — It is unlawful for anyone to use or apply any pesticide in a manner that does not comply with instructions on the product label. Among other grounds for denial, suspension or revocation of applicator certification, an applicator may not perform pesticide applications for which he or she is not certified, violate any provision of the Puerto Rico or U.S. pesticide laws, or fail to keep required records.

ENFORCEMENT: *Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735).*

● PESTICIDE ACT OF PUERTO RICO (*WORKER PROTECTION*)

TERMS: Agricultural employers must comply with the worker protection standards established by the U.S. Environmental Protection Agency, which require that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

ENFORCEMENT: *Agrology and Agricultural Materials Laboratory, Puerto Rico Department of Agriculture, Dorado, Puerto Rico 00646 (787-796-1735).*

● OCCUPATIONAL SAFETY AND HEALTH ACT (*HAZARD COMMUNICATION*)

TERMS: Under the authority of Puerto Rico's Occupational Safety and Health Act, the labor secretary has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural workplaces in Puerto Rico.

ENFORCEMENT: *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).*

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

● OCCUPATIONAL SAFETY AND HEALTH ACT (*ANHYDROUS AMMONIA*)

TERMS: Under Puerto Rico's Occupational Safety and Health Act, the labor secretary has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Puerto Rico's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ 10 or more workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Puerto Rico Occupational Safety and Health Administration, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2172).*

SPECIAL NOTE: A person may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has suffered from an act of retaliation may file a complaint with the Department, as if reporting any other violation of the Act.

WAGES AND HOURS

● PUERTO RICO MINIMUM WAGE, VACATION AND SICK LEAVE ACT

TERMS:

Minimum Wage — The minimum wage set by the U.S. Congress under the Fair Labor Standards Act (FLSA) applies to workers in Puerto Rico, subject to the same exemptions, exclusions and exceptions. The current minimum wage is \$7.25 an hour.

Workers Covered by FLSA — Farmworkers are entitled to the \$7.25 minimum wage only if they work for an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination).

Workers Not Covered by FLSA — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above must generally be paid no less than 70 percent of the current minimum wage, or \$5.08 an hour.

Vacation and Sick Leave —

Workers Covered by FLSA — Farmworkers employed by an agricultural establishment that used more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year are generally entitled to accrue vacation and sick leave, provided they work no less than 130 hours a month. Vacation leave accrues at a rate of 1/2 day per month during the first year of employment, 3/4 day per month from the second through the fifth year, 1 day per month from the sixth through the 15th year, and 1¼ days each month thereafter. Sick leave accrues at a rate of one day each month.

Exception — In the case of employers who are residents of Puerto Rico and who employ no more than 12 workers, vacation leave accrues at the rate of 1/2 day per month for as long as the employer's workforce does not exceed 12 employees.

Workers Not Covered by FLSA — Farmworkers who are employed by an agricultural establishment that does not meet the 500 worker-day test described above are not entitled to accrue vacation and sick leave.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).* A worker who does not receive the required minimum wage, or is not credited with vacation or sick leave as required, may file a claim with the Department.

A worker has the option of collecting unpaid minimum wages by taking legal action against the employer in civil court, using a private attorney or a public legal service provider. Such an action must be initiated within one year after the unpaid wages were due.

SPECIAL NOTE: The summary above includes certain changes in the law brought about by the Labor Transformation and Flexibility Act. Some of the changes apply only to workers hired after the new law went into effect, on January 26, 2017, but workers hired before that date generally are entitled to the same rights and benefits that applied to them before.

SPECIAL NOTE: The minimum wage rates indicated above may be effectively preempted by Puerto Rico's "guaranteed income," described in the next entry. Where the guaranteed income is higher than the minimum wage, the farm operator pays the guaranteed income to the worker and the government reimburses the employer for the difference between the guaranteed income and the minimum wage.

● GUARANTEED INCOME LAWS

TERMS: The Commonwealth of Puerto Rico guarantees farmworkers an hourly income of at least \$5.25, but only after employers have met their obligations under Puerto Rico's minimum wage and overtime laws and the requirements of any existing labor contract. Whenever a worker's pay for a given hour's work amounts to less than the guaranteed hourly income, the employer must pay the worker the guaranteed income for that hour of labor.

The difference between the guaranteed income and any lesser amount required to be paid by the employer is reimbursed to the employer by the government of Puerto Rico within 90 days after the employer has submitted the required reporting forms.

ENFORCEMENT: *Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350).* This agency is responsible for seeing that agricultural workers receive the guaranteed income that applies to their work, and may investigate the claim of any worker who has not been properly paid.

Enforcement of Puerto Rico's labor laws, and investigation of employers who fail to pay their workers what they are entitled to, is the responsibility of the *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

● HOUR LAWS

TERMS:

Working Hours — In all workplaces, 8 hours constitute a legal workday and 40 hours a legal workweek.

Overtime Pay — In general, an employer who permits a worker to work more than 8 hours on any workday or more than 40 hours in any workweek generally must pay the worker no less than $1\frac{1}{2}$ times the worker's regular rate of pay for each hour of overtime.

Exception — Through a written agreement between the employee and the worker, an alternate weekly work schedule may be established that allows the worker to complete a workweek of up to 40 hours, with daily shifts that may not exceed 10 hours per work day. But if the worker works more than 10 hours in a workday, the extra hours must be paid at a rate of $1\frac{1}{2}$ times the regular pay rate.

Meal Periods — An employer may not require employees to work more than 5 consecutive hours without a meal break of at least one hour, but an employer and a worker may agree, in writing, to meal periods of no less than 30 minutes. Any authorized work during a meal period must be compensated at $1\frac{1}{2}$ times the worker's regular pay rate.

Exception — The meal break *does not apply* to workers employed for no more than 6 hours on a given day.

Day of Rest — Except for workers employed on a piecework basis, agricultural and most other workers are entitled to one day of rest for every 6 workdays. Any authorized work on the day of rest must be compensated at $1\frac{1}{2}$ times the worker's regular pay rate.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

As an alternative to filing a claim with the Bureau of Labor Standards, a worker who does not receive full pay for regular or overtime hours has the option of recovering the unpaid amount in a civil suit against the employer, using a private attorney or a public legal services program.

SPECIAL NOTE: The summary above includes certain changes in the law brought about by the Labor Transformation and Flexibility Act. Some of the changes apply only to workers hired after the new law went into effect, on January 26, 2017, but workers hired before that date generally are entitled to the same rights and benefits that applied to them before.

● WAGE PAYMENT LAWS

TERMS:

Method of Payment — Workers must receive their wages in legal U.S. money, whether (1) in cash, (2) by check, (3) by direct deposit or electronic transfer, in either case to a bank of the worker's choosing, or (4) by payroll credit card. The worker may choose among the methods of pay the employer makes available. In general, the employer, not the worker, is responsible for any costs associated with the use of checks or electronic methods of payment.

Frequency of Payment — The wages of laborers of any kind must be paid no less often than every 15 days.

Final Wages — When a worker quits or is dismissed, the employer must pay the worker's earnings no later than the next regular payday.

Deductions — With few exceptions, it is unlawful for an employer to deduct or retain any part of a laborer's wages other than those amounts authorized by the worker for (1) payment of premiums to certain retirement or hospital service plans, (2) purchase of savings bonds, (3) payment of union dues, (4) repayment of loans advanced by the employer or made by certain institutions, (5) payment of the cost of meals, or repayment of advances for meals, consumed on the job by a worker in the agricultural phase of the sugarcane industry, (6) payment of premiums for certain types of insurance, or (7) charitable contributions.

Restrictions on How to Spend Wages — Employers are forbidden from imposing any restrictions or requirements on how or where their workers spend their earnings. An employer is prohibited from dismissing a worker because the worker spent his or her wages in a certain place or in a certain way.

ENFORCEMENT: *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).* A worker who has not been paid in accordance with these provisions may file a complaint with the Department.

The wage payment laws also give workers the right to sue an employer in civil court to collect unpaid wages, using a private attorney or a public legal services program. A suit may not be instituted later than one year after the worker terminates employment with the employer involved.

● AGRICULTURAL WORKERS ANNUAL BONUS LAW

TERMS: Every agricultural worker who has performed at least 200 hours of agricultural services or earned at least \$200 in agricultural wages in Puerto Rico over the annual period starting July 1 of each year and ending June 30 of the next year is entitled to a bonus equal to 4 percent of the worker's total agricultural income, but in no case less than \$165 or more than \$235. The agricultural bonus, financed by the government of Puerto Rico, is payable by December 20 following the end of the corresponding annual period.

For the purpose of determining eligibility for and the amount of each worker's annual bonus, no later than August 31 of each year all agricultural employers must report to the administering agency the name of each worker employed, the worker's Social Security number, total hours worked, and the amount of earnings over the annual reporting period.

ENFORCEMENT: *Agricultural Development Administration, Puerto Rico Department of Agriculture, San Juan, Puerto Rico 00908 (787-304-5350).* This agency is responsible for investigating claims for unpaid annual bonuses. If a worker is eligible for the bonus but does not receive all or part of it because one or more employers failed to report their earnings, the worker may claim double the amount of the difference between the total bonus payable and the bonus actually received.

Prosecuting claims for unpaid annual bonuses on behalf of agricultural workers is the responsibility of the *Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100).*

● INTERNAL REVENUE CODE OF 2011 (INCOME TAX WITHHOLDING AT THE SOURCE)

TERMS: Unlike earnings in most other industries, wages paid for agricultural services are not subject to withholding of state income tax.

ENFORCEMENT: *Bureau of Collections, Puerto Rico Department of Treasury, San Juan, Puerto Rico 00901 (787-622-0123).*

SPECIAL NOTE: Even though agricultural employers are generally not required to withhold state income taxes from a farmworker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Rhode Island

CHILD LABOR

● COMPULSORY ATTENDANCE LAW

TERMS: With only limited exceptions, every child in Rhode Island who has reached the age of 6 but is not yet 18 must regularly attend a public day school, an approved private school, or an approved course of instruction at home, during the days and hours the local public schools are in session. It is the legal duty of every person who has control of such a child to see that the child regularly attends school or its approved equivalent.

ENFORCEMENT: These provisions are enforced by the local public school committees.

● WORKERS' COMPENSATION ACT (*ILLEGAL CHILD LABOR*)

TERMS: Under the Workers' Compensation Act, a worker employed in violation of federal or state child labor laws who is injured in a job-related accident is entitled to *3 times* the amount of compensation which would have been payable if the worker had been legally employed.

This law applies to farm operations only if they employ 25 or more farmworkers for 13 or more consecutive weeks.

ENFORCEMENT: *Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.*

CIVIL RIGHTS

● STATE FAIR EMPLOYMENT PRACTICES ACT

TERMS: With very limited exceptions, it is illegal for a farm operator or any other employer with 4 or more workers to commit any of the following acts, among others:

- (1) To refuse to hire a job applicant because of the applicant's race, color, religion, sex, sexual orientation, gender identity or expression, disability, age (40 or over), or country of ancestral origin.
- (2) To fire or discriminate against a worker, on any of the same grounds, with respect to pay, the terms or privileges of employment, or any other matter related to employment.
- (3) To recruit or hire workers through any employment agency, placement service, training agency, labor organization, or any other source of job applicants that the employer knows discriminates against individuals because of their race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin.
- (4) To use any form of job application which contains questions relating to race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin, unless any such factor is a bona fide occupational qualification for the job involved.
- (5) To publish or circulate any employment advertisement or notice indicating a preference or discrimination based on race, color, religion, sex, disability, age, or country of ancestral origin.
- (6) Refusing to reasonably accommodate a worker's or prospective worker's disability, unless the employer can demonstrate that the accommodation would impose a hardship on the employer's business.

Employment agencies and labor organizations are prohibited from similar forms of discrimination.

ENFORCEMENT: *Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661).* A worker who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by this law may file a complaint with the Commission.

If the Commission has not held hearings on a complaint within certain time limits, a worker who has been subjected to unlawful employment discrimination may request a right-to-sue notice from the agency and take legal action against the violator directly, using a private attorney or public legal services program. Suit must be filed no later than 90 days after the notice is issued.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● CIVIL RIGHTS OF PEOPLE WITH DISABILITIES LAW

TERMS: It is illegal for an employer to discriminate against a person with a disability solely because of the person's disability, as long as the person is qualified for the job and can perform the job with reasonable accommodation and no major cost. This prohibition against employment discrimination applies to recruitment, hiring, promotion or demotion, layoff, termination, pay and benefits.

ENFORCEMENT: *Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661).* Any individual with a disability who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by these provisions may file a complaint with the Commission.

If the Commission fails to act on a worker's complaint within 60 days of filing, or the Commission has issued a final order on the complaint, the worker may take legal action in state court against the person or firm responsible for the violation, using a private attorney or public legal service provider.

● EQUAL PAY LAW

TERMS: In general, it is illegal for an employer to discriminate between the sexes in the payment of wages — or to pay a female at a wage rate less than the rate received by males — in the same establishment, for equal work or work on the same operations.

Variation in pay rates is not prohibited, however, when the wage difference is based on seniority, experience, training, skill, ability, difference in duties, difference in shift, or any other reasonable distinction other than sex.

ENFORCEMENT: *Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● RHODE ISLAND WHISTLEBLOWERS' PROTECTION ACT

TERMS: It is illegal for an employer to fire, threaten or otherwise discriminate against a worker regarding pay and other terms, conditions and privileges of employment for any of the following reasons:

- (1) The worker, or a person acting on the worker's behalf, has reported or is planning to report to a public agency, or to a public official, a violation of state or federal law, whether the violation is about to occur or has already occurred.
- (2) The worker has been asked by a public agency or official to participate in an investigation, hearing or inquiry held by an agency or court of law.
- (3) The worker refuses to violate or assist in violating a federal, state or local law.
- (4) The worker has reported to the employer, or to a supervisor, a violation of law that the worker believes has occurred or is about to occur.

ENFORCEMENT: A worker who suffers from a violation of the Whistleblowers' Protection Act may take legal action in civil court against the employer or other person responsible, using a private attorney or public legal service provider. A lawsuit of this nature must be filed within 3 years after the occurrence of the alleged violation.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY ACT

TERMS: Farm operators and other agricultural establishments that employ one or more workers in any calendar year are required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment insurance benefits if they have accumulated the necessary wage credits from employment and meet the program's other eligibility rules. UI recipients may also qualify for an additional allowance for dependents.

ENFORCEMENT: *Unemployment Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-243-9100).* Claims for unemployment compensation may be filed over the telephone, at 401-243-9100, or online at www.dlt.ri.gov/ui/fileclaim2.htm.

● WORKERS' COMPENSATION ACT

TERMS: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees. Most employers meet that obligation by purchasing workers' compensation insurance.

A worker who is injured on the job or is disabled by an occupational disease while working for such an employer is generally entitled to necessary medical treatment, hospital care, medicines, and cash compensation for loss of wages. If the injury or illness results in death, the worker's surviving dependents are normally eligible for death benefits.

ENFORCEMENT: *Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.*

● RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT

TERMS: Farmworkers, like most other employees in Rhode Island, are required to pay 1.2 percent of their earnings (up to a certain annual limit) to the state temporary disability insurance fund. The tax is deducted from the worker's pay by the employer and sent to the state, which in turn credits the worker for the amount of wages reported by the employer.

A farmworker who is unemployed and unable to perform his or her usual work because of a physical or mental condition (including pregnancy) is generally eligible for temporary disability benefits if the worker has accumulated the necessary wage credits. Recipients may also qualify for an allowance for dependents.

Benefits are not payable for any week in which the worker has received unemployment insurance or workers' compensation benefits.

ENFORCEMENT: *Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420).* Claims for disability benefits may be filed online, at uiclaims.ri.gov/tdionline/.

● RHODE ISLAND TEMPORARY DISABILITY INSURANCE ACT (TEMPORARY CAREGIVER INSURANCE)

TERMS: The Rhode Island Temporary Disability Insurance Act provides up to 4 weeks of wage-replacement benefits for workers who take time off work to care for a seriously ill family member, or to bond with a newborn or adopted child during the first 12 months of parenting. Temporary caregiver insurance benefits are financed by contributions withheld from workers' wages and forwarded to the fund by their employers.

To be eligible for caregiver benefits, a worker must have earned certain minimum amounts from employment during the year or so before a claim is filed, and must not be receiving unemployment or workers' compensation payments.

ENFORCEMENT: *Temporary Disability Insurance Unit, Income Support Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8420).* Claims for caregiver benefits may be filed online, at uiclaims.ri.gov/tdionline/.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL ACT

TERMS:

Licensing — Except for agricultural producers classified as private applicators, no one may apply pesticides on someone else's land unless the application is performed by or under the supervision of a person licensed by the state. Furthermore, in order to legally obtain, apply or supervise the application of certain restricted pesticides, a person generally must be certified, which requires passing a written test to demonstrate knowledge of pesticides and competence to handle such products safely and effectively.

Financial Responsibility — As a condition for certification, commercial applicators must obtain a bond in the amount of \$50,000 per job, or purchase an insurance policy covering bodily injury (\$50,000 each occurrence, \$100,000 aggregate) and property damage (\$50,000).

Private Applicator Certification — Farm operators who apply restricted pesticides to their own crops, and farmworkers who are required to apply pesticides to the crops of their employers, must be certified by the state as private applicators. Private applicators must pass a test demonstrating knowledge and competency to handle and use pesticides in their normal operations or for any special uses.

Prohibited Acts — Among many others, the following acts are both illegal and grounds for denying, suspending or revoking a pesticide applicator's license or certification:

- (1) Using a pesticide in a manner contrary to label instructions.
- (2) Operating faulty or unsafe equipment.
- (3) Operating in a faulty or careless manner.
- (4) Failing to keep required records or make required reports.

- (5) Using pesticides without being licensed or certified for such use, or without direct supervision by a properly licensed or certified applicator.
- (6) Detaching or tampering with any part of a pesticide label.
- (7) Storing or disposing of a pesticide or pesticide container in such a way as to injure humans, crops, livestock or wildlife.

ENFORCEMENT: *Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781).*

● PESTICIDE CONTROL ACT (AERIAL APPLICATION)

TERMS:

Certification — Individuals who intend to apply pesticides from an aircraft must be certified as aerial applicators. In addition to qualifications related to experience and competency, aerial applicators are required to post a \$100,000 performance bond, or obtain and keep in force a liability insurance policy with bodily injury coverage limits of at least \$100,000 per occurrence and \$200,000 aggregate, and property damage coverage of at least \$100,000.

Prior Authorization of Aerial Applications — No one may apply any pesticide by aircraft without prior written approval from the state.

ENFORCEMENT: *Division of Agriculture, Rhode Island Department of Environmental Management, Providence, Rhode Island 02908 (401-222-2781).*

● HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT

TERMS:

Identification of Hazardous Substances — Every employer whose workers are exposed on the job to any toxic or hazardous substance must make a complete list of all such substances readily available to the workers during all hours of operation. Likewise, for each item on the list, the employer is responsible for obtaining a document, known as a "material safety data sheet," which contains identifying information about the substance, its characteristics, its hazards, precautions for safe handling, emergency first-aid procedures, and related data.

Workers' Right to Information — Within 3 working days (not counting weekends and holidays) after a worker's request to see or copy the employer's chemical list or the material safety data sheet for any substance on the list, the employer must make such information available to the worker. If the requested information has not been received within 3 days, the worker may then refuse to work with or be exposed to the substance, free from penalties or discrimination.

Training and Education — Before a worker is assigned to the job and at least once a year after that, the employer is required to provide a program of training and education to advise the worker about all toxic or hazardous materials to which the worker may be exposed on the job. Among other subjects, training must cover both the hazards involved and appropriate work practices, protective measures and emergency procedures.

Farm Labor Contractors' Role — When farmworkers perform services on a farm through a farm labor contractor, it is generally the contractor's responsibility to respond to worker requests for information and to provide the required training and education.

ENFORCEMENT: *Right-to-Know Unit, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8570).*

As an alternative to filing a complaint with the state agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Using a private attorney or public legal service provider, a worker subjected to retaliation may take legal action against the violator at any time within 180 days after the act occurs, or within 90 days after first becoming aware of the violation.

As an option, the worker may notify the Department of Labor and Training, which has authority in such cases to order the violator to reimburse the worker for any financial losses caused by the retaliation, plus interest.

WAGES AND HOURS

● RHODE ISLAND MINIMUM WAGE ACT

TERMS: The Rhode Island Minimum Wage Act entitles most employees in the state — including farmworkers — to a wage no lower than \$9.60 an hour. All employers subject to any provision of the Act are required to keep a record of the wage rates, hours, earnings and related payroll data on each of their employees and to post a summary of the law at the workplace.

ENFORCEMENT: *Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550).*

As an alternative to filing a wage claim with the Department, a person who has not received the minimum wage may take action against the employer involved in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE PAYMENT LAWS

TERMS:

Paydays — Every employer must establish a regular payday, and workers are entitled to written notice of any change in the scheduled payday at least 3 paydays in advance. Unless pay is on a fixed bi-weekly, semi-monthly, monthly or yearly rate, workers must be paid weekly, and each payday must fall within 9 days of the end of the payroll period in which the wages were earned.

Method of Pay — Employers are not permitted to pay wages in any medium other than (1) in lawful U.S. money, (2) by check, convertible into cash on demand and at full face value, or (3) by electronic transfer to the worker's bank account or payroll card. Employers are permitted to pay wages using a payroll card only if the worker is able to make at least one withdrawal from the payroll card account per pay period without charge, up to the full amount of the net wages for the pay period.

Final Wages — Whenever a worker quits the job or is terminated by the employer, the worker's final wages are payable on the next regular payday.

Earnings Statements — On every regular payday, the employer is obligated to furnish the worker with a statement showing the hours worked during the pay period, the deductions made from the worker's pay, and the basis or reason for each such deduction.

ENFORCEMENT: *Labor Standards Program, Workforce Regulation and Safety Division, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920 (401-462-8550).*

As an alternative to filing a wage claim with the Department, a person who has not received wages in accordance with these provisions may take action in civil court against the employer involved, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● PERSONAL INCOME TAX LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31, the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld, if any.

ENFORCEMENT: *Division of Taxation, Rhode Island Department of Revenue, Providence, Rhode Island 02908 (401-574-8922).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

South Carolina

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Age Restrictions — Children as young as 12 years of age are permitted to work in agriculture, as long as the employment occurs outside local school hours and with the consent of the child's parent or legal guardian. Children 14 years old and over may work in non-hazardous agricultural occupations outside school hours with no further restrictions.

Hazardous Farm Occupations — State child labor regulations generally prohibit the employment of anyone under the age of 16 in the following agricultural activities, among others:

- (1) Operating a tractor of over 20 horsepower.
- (2) Operating or helping to operate power harvesting equipment such as corn pickers, cotton pickers, grain combines, hay mowers, hay balers or potato diggers.
- (3) Working from a ladder or scaffold at a height over 20 feet.
- (4) Driving a vehicle transporting passengers, or riding on a tractor as a passenger or helper.
- (5) Handling or applying certain agricultural chemicals identified by the word "Poison" or "Warning" on the label.
- (6) Transporting, transferring or applying anhydrous ammonia.

ENFORCEMENT: *Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470).*

● COMPULSORY ATTENDANCE LAW

TERMS: Except for children who have completed the 8th grade and whose employment has been found by a court to be necessary for the support of their family, all children 5 through 16 years of age must attend an approved public, private, parochial or denominational school, or an approved alternative educational program.

It is the duty of the parent or guardian of each such child to see that the child complies with this requirement.

ENFORCEMENT: These provisions are enforced by the local school boards.

CIVIL RIGHTS

● SOUTH CAROLINA HUMAN AFFAIRS LAW

TERMS: In general, it is illegal for an employer who has 15 or more employees for each working day in 20 or more different weeks, to refuse to hire a job applicant, to fire a worker, or to discriminate in any other way against a person regarding the terms or conditions of employment, because of the person's race, religion, color, sex, age (over 40), national origin, or disability.

Likewise, such an employer may not limit, segregate or classify workers or job applicants in any way which would limit a person's job opportunities or otherwise negatively affect employment on the grounds of race, religion, color, sex, age, or national origin.

Publishing an employment advertisement or circulating a job notice which indicates a preference or discrimination based on race, color, religion, sex, national origin or disability is also prohibited.

Similar restrictions against discrimination apply to employment agencies and labor organizations.

ENFORCEMENT: *South Carolina Human Affairs Commission, Columbia, South Carolina 29201 (803-737-7800; toll-free 800-521-0725).* A worker who has been affected by an act of employment discrimination may file a complaint with the Commission at any time within 180 days after the act occurred.

If the Commission has not informally resolved the complaint or started legal action against the employer involved within 180 days after the complaint is filed, or if the Commission has dismissed the charges, the worker may bring suit against the employer directly, using a private attorney or a public legal services program. A lawsuit generally must be filed within one year after the violation occurred, or within 120 days after the Commission dismisses a case, whichever is earlier.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

HEALTH AND SAFETY

● OCCUPATIONAL HEALTH AND SAFETY LAW

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor director has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE LAW

TERMS: Every farm operator or other agricultural operation that paid cash agricultural wages of \$20,000 or more in any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 workers in agricultural labor for some part of a day in each of 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, South Carolina Department of Employment and Workforce, Columbia, South Carolina 29202 (803-737-2546).* Unemployment claims may be filed online, at mybenefits.dew.sc.gov.

PESTICIDES AND AGRICULTURAL CHEMICALS

● SOUTH CAROLINA PESTICIDE CONTROL ACT

TERMS:

Licensing and Certification — It is illegal for anyone to use or supervise the use of any restricted pesticide without a private, commercial or non-commercial applicator license issued by the state. To qualify for a license, commercial applicators and most farm operators must also be certified, which requires that the applicant pass a test to demonstrate his or her ability to use such products safely. Licensing and certification are required prior to purchase or use of restricted pesticides.

Financial Responsibility — Before a commercial applicator license may be granted, the applicant must obtain a bond, purchase liability insurance, or have comparable security ranging from \$50,000 to \$100,000, protecting persons who may suffer legal damages as a result of the applicant's operations.

Prohibited Practices — It is a violation of law and grounds for suspension or cancellation of a license and certification for a person to operate unsafe equipment, to apply pesticides carelessly, to fail or refuse to keep required records, or to apply pesticides without the proper type of license or certification.

ENFORCEMENT: *Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164).*

● SOUTH CAROLINA PESTICIDE CONTROL ACT (AERIAL APPLICATION)

TERMS:

Licensing and Certification — Anyone who applies restricted pesticides by aircraft must either be licensed and certified by the state, or work under the direct supervision of a certified licensed applicator. Licensing and certification require successful completion of a basic examination covering general subject matter and a specific test for aerial operators.

Aircraft Loading Zones — Areas where pesticide aircraft are loaded must be adequately marked, and must also be posted with general warnings that toxic pesticides or pesticide containers may be stored in the area and that pesticides may have been spilled on the ground within the loading zone.

Application Disclosures — With respect to each application of a pesticide, aerial applicators must provide their customers with a statement containing, at a minimum, (1) the name and address of the spraying firm or company, (2) the identity of the target pest or purpose of the pesticide application, (3) the chemical or common name of the pesticide's active ingredient, and (4) the name of the responsible licensed applicator.

ENFORCEMENT: *Department of Pesticide Regulation, Regulatory Services Division, Clemson University, Pendleton, South Carolina 29670 (864-646-2164).*

● OCCUPATIONAL HEALTH AND SAFETY LAW (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational health and safety law, the state labor director has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● OCCUPATIONAL HEALTH AND SAFETY LAW (ANHYDROUS AMMONIA)

TERMS: Under the health and safety law, the labor director has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. South Carolina's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *South Carolina Occupational Safety and Health Administration, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-7682).*

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

WAGES AND HOURS

● WAGE PAYMENT LAW

TERMS: Employers with 5 or more employees at any one time during the preceding 12 months are required to comply with the state wage payment law. Key provisions include the following:

Notification — Either through use of individual written statements or by posting at the workplace, employers must notify each worker at the time of hiring as to the hours and wages agreed upon, the time and place of payment, and the deductions to be made from the worker's pay. Any change in these terms must be made in writing at least 7 calendar days before it becomes effective.

Pay Statements — Every employer subject to the law is obligated to provide each worker with an itemized statement showing the worker's gross pay and deductions for each pay period.

Method of Payment — In general, employers are not permitted to pay wages in any medium other than (1) in lawful U.S. money, (2) by check or similar draft that can be exchanged for cash, or (3) by direct deposit to a federally insured financial institution. If the employer uses direct deposit, the worker must be allowed at least one free withdrawal per pay period.

Deductions — Employers may not withhold or divert any portion of a worker's wages unless required or permitted to do so by state or federal law.

Final Wages — Whenever a worker is terminated from employment, for whatever reason, the employer generally must pay all wages due within 48 hours of termination or by the next regular payday, which may not exceed 30 days.

ENFORCEMENT: *Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina 29211 (803-896-4470).*

As an alternative to filing a wage complaint with the Department, a worker may recover unpaid wages by taking legal action against the employer in civil court, using a private attorney or public legal service provider. If the suit is successful, the court may award up to three times the full amount of the unpaid wages, together with court costs and attorney's fees. Court action to recover unpaid wages must be commenced no later than 3 years after the wages become due.

● AGRICULTURAL LIEN LAWS

TERMS: Farmworkers who perform services on any crop but are not paid for their labor are legally entitled to a portion of the value of the crop when it is sold, to satisfy the amount due. The worker's claim, or lien, on part of the farm operator's crop for unpaid wages is second in priority only to a claim against the farm operator by the landowner for unpaid rent (if any).

ENFORCEMENT: These provisions may be enforced only through the courts. Any worker who has not received full pay for his or her labor on a crop may enforce the agricultural laborers' lien in civil court, using a private attorney or a public legal services program.

● INCOME TAX WITHHOLDING LAW

TERMS: Farm operators and farmworkers in South Carolina are *exempt* from state income tax withholding, provided the wages involved are for work performed on the farm.

ENFORCEMENT: *South Carolina Department of Revenue, Columbia, South Carolina 29210 (803-898-5000; toll-free 844-898-8542).*

SPECIAL NOTE: Even when a farm employer is not required to deduct state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

South Dakota

CHILD LABOR

● CHILD LABOR LAWS

TERMS: Children under the age of 16 are generally prohibited from working (1) for more than 4 hours on any school day or more than 8 hours on any non-school day, (2) for more than 20 hours in any school week or more than 40 hours in any non-school week, and (3) after 10:00 p.m. on any night before a school day.

Exception — There are no hours or time-of-day restrictions on minors roguing or detasseling hybrid seed corn on a non-school day or during a non-school week.

ENFORCEMENT: *Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: With few exceptions, every person in charge of a child who is at least 6 years of age must assure that the child regularly attends some public or non-public school for the entire term during which the local public schools are in session, until the child has graduated or reaches the age of 18.

ENFORCEMENT: The school attendance law is enforced by local school boards, through truancy officers employed by each board for that purpose.

CIVIL RIGHTS

● SOUTH DAKOTA HUMAN RELATIONS ACT OF 1972

TERMS: With very limited exceptions, it is illegal for a farm operator or any other employer to refuse to hire a job applicant, to fire an employee, or to treat any worker unfairly or unequally with respect hiring, training, promotion, layoff, wages, or any term or condition of employment, because of the worker's race, color, creed, religion, sex, ancestry, disability or national origin.

Employers are also generally prohibited from advertising or otherwise indicating that individuals of any particular race, color, creed, religion, sex, ancestry, disability or national origin are unwelcome, objectionable, or not acceptable for employment.

ENFORCEMENT: *Division of Human Rights, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).* A worker has up to 180 days after an act of employment discrimination occurs to file a complaint with the Division.

SPECIAL NOTE: It is illegal for anyone to retaliate in any way against an individual because the individual has filed a charge, testified, or helped anyone exercise rights under the Human Relations Act.

● EQUAL PAY LAW

TERMS: No farm operator or any other employer may pay a worker lower wages than the employer pays a worker of the opposite sex for essentially equal work, on jobs which require the same skill, responsibility and effort (other than physical strength).

Wage differences based on workers' length of service, job classification, or other factors not related to sex, are generally not regarded as unlawful.

ENFORCEMENT: *Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).*

As an alternative to filing a claim or complaint with the Division, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. A suit under the equal pay law must be filed no later than 2 years after the violation occurs.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages of \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some portion of a day in 20 different calendar weeks this year or last, must pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Division, South Dakota Department of Labor and Regulation, Aberdeen, South Dakota 57402 (605-626-3172).* Workers may apply for unemployment compensation by phone, at 605-626-3179, or online at www.sd.uicclaims.com.

SPECIAL NOTE: Unemployment claims filed by workers who have recent earnings from certain seasonal industries are subject to special rules which may limit the workers' eligibility for benefits, as well as the amount and duration of benefits.

PESTICIDES AND AGRICULTURAL CHEMICALS

● AGRICULTURAL PESTICIDE APPLICATION LAW

TERMS:

Licensing — In general, no one may engage in the business of applying pesticides to someone else's property without an applicator's license issued by the state, and no one employed by a licensed applicator may apply or supervise the application of pesticides without obtaining an operator's license.

Certification — It is against the law for anyone to use a restricted pesticide unless the person has been certified by the state as competent to do so.

Storage and Disposal of Pesticides — It is unlawful for anyone to store or dispose of a pesticide or pesticide container in any way which could lead to open dumping or burning of such products or containers, or to water dumping. Pesticides may not be stored next to food or feed.

Prohibited Acts — It is a misdemeanor criminal offense for anyone to apply pesticides to someone else's land without the required class of applicator's or operator's license. Generally, too, it is a violation of the law for a person to transport, store or dispose of a pesticide or pesticide container in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects. Among other grounds for denial, suspension, revocation or modification of an applicator's license or certification are these:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or neglecting to keep required records or make required reports.
- (4) Refusing or neglecting to comply with the pesticide laws and regulations, or with a lawful order by the enforcement agency.

ENFORCEMENT: *Office of Agronomy Services, Division of Agricultural Services, South Dakota Department of Agriculture, Pierre, South Dakota 57501 (605-773-4432).* A person claiming damages from a pesticide application generally must file a written claim with the Department within 30 days after the damages occurred.

WAGES AND HOURS

● WAGE AND HOUR LAWS (*MINIMUM WAGE*)

TERMS: With few exceptions, employers in South Dakota must pay each employee who is 18 years of age or older no less than the state minimum wage. The current minimum wage is \$8.65 per hour.

The state minimum wage may be adjusted each year to account for increases in the cost of living. Any adjustment in the minimum wage is published on October 15 and becomes effective the following January 1.

ENFORCEMENT: *Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE AND HOUR LAWS (*WAGE PAYMENTS*)

TERMS: In general, every farm employer is obligated to pay all cash wages at least once a month, on regular paydays designated in advance by the employer. Unless an employer and employee agree to another method of payment, wages must be paid (1) in lawful U.S. money, (2) by check, or (3) by direct deposit to the employee's bank account.

When a worker quits or an employer terminates a worker from employment, the worker's final pay is due not later than the next regular payday, or as soon thereafter as the worker returns any of the employer's property which is in the worker's possession.

ENFORCEMENT: *Wage and Hour Office, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501 (605-773-3681).*

As an alternative to filing a wage claim with the state agency, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

Tennessee

CHILD LABOR

● SCHOOL ATTENDANCE LAWS

TERMS: With only limited exceptions, every parent or other person living in Tennessee and having control of a child between the ages of 6 and 17 must see that the child attends a public or non-public school. **ENFORCEMENT:** These provisions are enforced by the local school districts.

CIVIL RIGHTS

● HUMAN RIGHTS LAW (*EMPLOYMENT DISCRIMINATION*)

TERMS: In general, it is unlawful for a farm operator or any other employer with 8 or more employees to refuse to hire a job applicant, to fire a worker, or to discriminate against an individual with respect to wages or the terms or conditions of employment, because of the individual's race, creed, color, religion, sex, age (40 and over), or national origin.

It is also illegal to limit, segregate or classify employees or job applicants on the basis of any of these same factors in a way which would limit job opportunities or otherwise unfavorably affect employment.

Exception — In those cases where religion, sex or age is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business, the human rights law does not bar an employer from using an applicant's religion, sex or age in hiring decisions.

ENFORCEMENT: *Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589).* A worker whose rights under this law have been violated may file a complaint with the Commission at any time within 180 days after the violation occurred.

As an alternative to filing a complaint with the Commission, the law gives workers the right to sue the violator in civil court to enforce these provisions, using a private attorney or a public legal services program. Suit must be filed within one year after the alleged discriminatory practice ended.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● TENNESSEE DISABILITY ACT

TERMS: An employer with 8 or more employees in the state is prohibited from discriminating against a person in hiring, firing and other terms and conditions of employment, based solely on the person's physical, mental or visual disability, unless the disability to some degree prevents the person from performing the duties required or interferes with performance of the work involved.

Likewise, no blind person may be discriminated against in any such employment practices because he or she uses a guide dog.

ENFORCEMENT: *Tennessee Human Rights Commission, Nashville, Tennessee 37243 (615-741-5825; toll-free 800-251-3589).*

As an alternative to filing a complaint with the Commission, a worker who suffers damages due to unlawful discrimination under the Tennessee Disability Act may take legal action against the employer involved, using a private attorney or public legal service provider. Action must be filed within one year after the alleged discriminatory practice ceased.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WAGE REGULATIONS (*SEX DISCRIMINATION*)

TERMS: Under most circumstances, it is illegal for an employer to pay a worker a salary or wage rate less than the rate paid to a worker of the opposite sex for essentially equal work, on jobs requiring similar skill, effort and responsibility and performed under similar working conditions. Employers are not, however, prohibited from using wage scales that are based on seniority or merit, that measure earnings by quality or quantity of production, or that set wages using factors other than sex.

This protection applies to all farmworkers who are not already protected by the federal equal pay provisions (*see entry, U.S. — Civil Rights*).

ENFORCEMENT: *Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818).*

As an alternative to filing a claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program. Any such lawsuit must be filed no later than 2 years after the act of discrimination took place.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WHISTLEBLOWER LAW

TERMS: No worker may be fired solely for refusing to participate in, or for refusing to remain silent about, activities that are in violation of state or federal law or any regulation intended to protect the public health, safety or welfare.

ENFORCEMENT: A worker who is terminated in violation of this provision may take action in civil court against the employer involved, using a private attorney or public legal service provider.

● WAGE REGULATIONS (*COMPULSORY TRADE*)

TERMS: It is illegal for an employer who owns or controls a store, or the agent of such an employer, to persuade or force his or her workers to buy goods at the employer's store by withholding wages beyond the usual time of payment. It is also unlawful for an employer to require as a condition of employment, or continued employment, that a worker trade at a store specified by the employer.

ENFORCEMENT: *Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818).* This agency has authority to investigate worker complaints of forced trade under this provision, and to assist in prosecution of violations.

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor department has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a hearing, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency no later than 30 days after the violation occurred.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*FIELD SANITATION*)

TERMS: Under Tennessee's Occupational Safety and Health Act, the state labor department has adopted regulations requiring certain agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to those farm employers that have more than 10 workers in the field on any given day.

ENFORCEMENT: *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a hearing, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency no later than 30 days after the violation occurred.

HOUSING

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health law, the state labor department has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Tennessee's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a hearing, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency no later than 30 days after the violation occurred.

INSURANCE AND COMPENSATION

● TENNESSEE EMPLOYMENT SECURITY LAW

TERMS: Each farm operator or other agricultural employer who paid at least \$20,000 in cash farm wages during any 3-month period (calendar quarter) in the current or preceding year, or employed at least 10 farmworkers in each of 20 different weeks this year or last, is required to pay taxes to the state unemployment compensation fund. The state agency credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment insurance benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. UI benefits currently range from \$30 to \$275 a week, depending on the worker's past earnings.

ENFORCEMENT: *Unemployment Compensation Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (toll-free 844-224-5818).* Claims for unemployment compensation may be filed online, at www.jobs4tn.gov.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● GENERAL LABOR LAWS (*HIRING PRACTICES*)

TERMS: It is illegal for anyone to bring workers of any kind into Tennessee for any sort of employment, or to persuade a worker to move from one place to another within the state, by means of misrepresentation, false promises, or false advertising concerning the nature of the work to be done, the amount of pay, the sanitary conditions on the job, the existence or non-existence of a strike at the worksite, or other conditions of employment.

ENFORCEMENT: This provision is enforced in the criminal courts by public prosecuting attorneys.

Apart from any criminal enforcement action, a worker who is persuaded through false promises or fraud to relocate for employment reasons has a right to sue the employer or recruiter involved for all damages that the worker suffers as a result, using a private attorney or a public legal services program.

PESTICIDES AND AGRICULTURAL CHEMICALS

● TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

TERMS:

Licensing — Anyone who buys or uses a restricted pesticide must be certified as a private or commercial applicator, unless licensed as a commercial pest control operator.

Certification — Restricted-use pesticide applicators are required to pass an examination specific to the type of pesticide application services they will perform. The agricultural pest control certification exam covers the various crops and pests targeted by pesticides, soil and water issues, pre-harvest and re-entry intervals, the potential for environmental contamination and non-target injury, and community issues relevant to the use of restricted pesticides in agricultural areas. Every 3 years, a commercial pesticide applicator must obtain at least 18 units of approved continuing education credits to qualify for recertification.

Recordkeeping — All commercial pest control operators and commercial applicators must keep accurate records documenting each use of pesticides. Among other information, the record must include (1) the applicator's name and state-assigned ID number, (2) the name of the pesticide used, (3) the pest and crop targeted by the treatment, (4) the location of the application, (5) the application rate and amount of product used, (6) the name of the person who requested the application, and (7) the date of the treatment.

ENFORCEMENT: *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37270 (615-837-5148).*

● AERIAL PESTICIDE APPLICATION LAW

TERMS: Before applying any pesticide by aircraft, a pilot must obtain a license from the state to do so. Among other requirements, issuance of a commercial aerial applicator's license requires the applicant (1) to have a valid license issued by the Federal Aviation Administration authorizing agricultural aircraft operations, and (2) to demonstrate competency in aerial pesticide application, by meeting the requirements for certification in that category of operation.

Aircraft licenses must be displayed in plain sight on each aircraft, and each pilot must carry his or her license at all times while performing pesticide application activities.

No aerial applicator's license may be issued unless the applicant submits proof of liability insurance coverage, in the minimum amount of \$100,000.

ENFORCEMENT: *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37270 (615-837-5148).*

● TENNESSEE INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (*WORKER PROTECTION*)

TERMS: Agricultural employers must comply with the worker protection standard established by the U.S. Environmental Protection Agency, which requires that workers be provided with certain information about the pesticides to which they are exposed in the fields and with personal protective equipment to help prevent pesticide-related injury or illness (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

The owner or operator of a farm or other agricultural establishment subject to the state rules must provide any farm labor contractor who performs work there (1) the location of the establishment's central posting site, and (2) any re-entry restrictions in effect in a pesticide-treated area if the area is within 1/4 mile of a location where workers are present and the treated area is not posted as required under the EPA standard. The labor contractor, in turn, must direct the workers under his or her control to the central posting area or provide the required pesticide application notifications to the workers directly.

ENFORCEMENT: *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37270 (615-837-5148).*

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (HAZARD COMMUNICATION)

TERMS: Tennessee's Occupational Safety and Health Act requires employers in the state to comply with the hazard communication standard established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

However, while this law covers virtually all employers and employees in Tennessee, the state hazard communication regulations explicitly *exclude* any agricultural workplace with respect to which the state agriculture commissioner certifies that the chemicals present there are covered by other federal or state laws or regulations.

ENFORCEMENT: *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

The agency responsible for making the certification required to exempt a farm employer from the hazard communication standard is the *Pesticide Section, Consumer and Industry Services Division, Tennessee Department of Agriculture, Nashville, Tennessee 37270 (615-837-5148).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a hearing, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency no later than 30 days after the violation occurred.

● OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 (ANHYDROUS AMMONIA)

TERMS: Under the occupational safety and health law, the state labor department has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Tennessee's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Safety Compliance Section, Occupational Safety and Health Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-741-2793; toll-free 844-224-5818).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a hearing, or exercised any other right afforded by these provisions. A worker who has been subjected to retaliation may file a complaint with the enforcement agency no later than 30 days after the violation occurred.

WAGES AND HOURS

● WAGE REGULATIONS

TERMS:

Pay Periods — Farm operators and other employers with 5 or more employees are required to pay their workers at least twice a month. Wages earned from the 1st through the 15th day of any month are payable no later than the 5th day of the following month; wages earned from the 16th through the last day of the month are payable by the 20th of the next month.

Paydays — Every employer in the state must establish and maintain regular paydays, and must post in plain sight in at least 2 locations at the workplace a notice indicating the payday schedule.

Method of Payment — Employers are forbidden to pay wages in any medium of exchange other than (1) in lawful U.S. money, (2) by check or draft, payable without discount in lawful U.S. money at an established place of business, (3) by electronic transfer in lawful U.S. money, or (4) by credit to a prepaid debit card, from which the worker is able to withdraw or transfer funds.

Employers who use debit cards to pay wages must ensure that their workers can make at least one withdrawal or transfer per pay period for any amount contained on the card and without cost to the worker, and must give their workers the option to receive pay via electronic transfer instead.

ENFORCEMENT: *Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818).*

● CROP LIEN LAWS

TERMS: Any worker who cultivates the soil or performs services on a crop under a verbal or written agreement with a farm operator, and who does not receive the full amount of pay agreed on, is entitled to a portion of the value of the crop when it is sold, as payment for the work performed.

To enforce this right, or lien, the worker must file a sworn statement of the claim before the appropriate court. The worker's lien on part of the farm operator's crop for unpaid wages is second in priority only to a claim against the farm operator by the landowner for any unpaid rent or supplies.

ENFORCEMENT: These provisions may be enforced only through the courts. A farmworker who does not receive all wages earned in the production of a crop should consult a private attorney or public legal services program about action on the lien.

Texas

CHILD LABOR

● COMPULSORY SCHOOL ATTENDANCE LAWS

TERMS: In general, every child in Texas who has reached the age of 6 but has not yet reached the age of 19 is required to attend a public school each school day for the entire period the program of instruction is provided, or attend a private or parochial school whose curriculum includes good citizenship.

Among other narrow exceptions, the requirement to attend school does not apply to a child who (1) is at least 17 years old and has received a high school diploma or GED certificate, or (2) is at least 16 years old and is enrolled in an approved high school diploma program or GED preparation program.

ENFORCEMENT: These provisions are enforced by school attendance officers appointed by the state's local school boards or superintendents, and by local peace officers.

CIVIL RIGHTS

● EMPLOYMENT DISCRIMINATION LAW

TERMS: With very limited exceptions, it is illegal for a farm operator or any other employer who has 15 or more workers for each working day in at least 20 different weeks this year or last, to engage in any of the following acts (among others):

- (1) To refuse to hire a job applicant, to fire a worker, or to otherwise discriminate against an individual with respect to pay, or the terms and conditions of employment, because of race, color, disability, religion, sex, national origin, or age (40 and older).
- (2) To limit, segregate or classify a job applicant or employee on any of these same grounds, in a way that would tend to deprive a person of job opportunities.
- (3) To publish or circulate an employment notice or advertisement indicating a preference or specification based on race, color, disability, religion, sex, national origin, or age.

Employment agencies and labor organizations are prohibited from engaging in similar discriminatory practices.

Exceptions — The law does not prevent employers from applying different pay scales, or different terms and conditions of employment, under a bona fide seniority system, merit system, employee benefit plan, or a system that measures earnings by quantity or quality or production, as long as such differences do not discriminate on the basis of race, color, disability, religion, sex, national origin, or age.

ENFORCEMENT: *Civil Rights Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-2642; toll-free 888-452-4778).* A worker may file an employment discrimination complaint with the Commission at any time within 180 days after the unlawful practice occurred.

Whenever a complaint is dismissed by the Commission, or the Commission does not take legal action to enforce compliance within 180 days after the complaint was filed, the worker may take legal action against the employer directly, using a private attorney or a public legal services program. Court action, either by the Commission or by the worker, may not be commenced later than one year after the complaint was originally filed with the agency.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● HEALTH AND SAFETY CODE (*SANITATION AND HEALTH PROTECTION*)

TERMS: The state health commissioner has adopted sanitation standards for temporary places of employment, including work in any agricultural operation or activity performed in the field or outside a permanent structure or facility. These provisions apply only to smaller agricultural workplaces that are not subject to the field sanitation standards enforced by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*).

Drinking Water — Employers of agricultural workers at temporary worksites must provide an adequate, sanitary supply of drinking water. For each worker on the job on any day, there must be no less than 2 quarts of water, kept at a temperature no higher than 80 degrees F. Except where water is dispensed from a fountain, disposable single-use cups must be furnished to the workers for drinking purposes; the use of common drinking cups or dippers is prohibited.

Toilet Facilities — Employers of field workers must also provide at least one toilet for every 30 workers of each sex; where chemical toilets are used, there must be at least one toilet for every 20 workers. At any job site with 15 workers or less, a single toilet may be provided for both men and women. All toilet enclosures must assure privacy, be maintained in a sanitary condition, and be well-ventilated. The employer must furnish an adequate supply of toilet paper in each unit.

Handwashing Facilities — Employers must provide at least one handwashing facility for every 2 toilets furnished at the job site. Handwashing equipment generally must be supplied with sanitary running water, a suitable cleaning agent, paper towels, and waste containers for their disposal. The handwashing facilities must be supplied with at least 1/2 gallon of water for each worker present at the site each day.

Lunch or Rest Areas — Where workers are permitted or required to eat or take rest breaks, employers must provide or designate suitable areas for that purpose. If sufficient shade is not available, a tarp or similar temporary cover should be provided to provide shade during eating and rest periods. There must also be an adequate number of covered containers for disposal of food waste. No food may be stored, prepared or eaten in an area where it may become contaminated.

Distance Limitation — No worker may be required to walk more than 1/4 mile to use any of the sanitary facilities described above, unless the employer provides or has arranged for transportation of workers to alternate toilet and washing facilities requiring no more than 5 minutes' travel time for the workers.

Partial Exemption — On any day in which a farm operator employs no more than 6 workers at a temporary field location, the farmer is not required to provide toilet or handwashing facilities, as long as he or she provides or arranges for transportation of the workers to and from nearby alternative facilities accessible for their use. The grower is still obligated to provide drinking water to the workers at the job site.

ENFORCEMENT: *Public Health and Sanitation Program, Division for Regulatory Services, Texas Department of State Health Services, Austin, Texas 78714 (512-834-6770).*

SPECIAL NOTE: It is the position of the Department of State Health Services that it has no authority over agricultural activities taking place on a farm in the state of Texas, and thus does not enforce the sanitation standards for temporary places of employment at on-farm agricultural workplaces.

● MISCELLANEOUS LABOR LAWS (*SHORT-HANDLED HOES*)

TERMS: It is illegal for a farm operator or other agricultural employer to require a worker to use a hoe with a handle less than 4 feet long in commercial farming operations (other than in a greenhouse or nursery).

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

HOUSING

● MIGRANT LABOR HOUSING FACILITIES LAW

TERMS: No one may operate a migrant labor housing facility in Texas — briefly defined as one or more structures or vehicles used for more than 3 days as living quarters for 3 or more migrant, seasonal or temporary agricultural workers, or for 2 or more such families, whether or not rent is charged in connection with use or occupancy — without first obtaining an annual license from the state to do so. The license must be kept posted at the facility to which it applies at all times during its maintenance or operation.

Application and Inspection — Application for a migrant labor housing facility license must be made at least 45 days before its intended opening. Within 30 days after receiving an application, the state licensing agency must inspect the facility, and if it meets the minimum standards applicable to such housing, the agency will issue a license.

Minimum Standards — The state has adopted detailed safety and sanitation standards that migrant labor housing must meet to qualify for a license. Among other factors considered in determining if a housing facility meets those standards are these:

- The location and condition of the housing site
- The size and condition of the housing structures
- The water supply
- The electrical system and lighting
- The sewage disposal system
- Cooking and eating arrangements
- Sleeping accommodations
- Heating equipment
- Toilet facilities
- Bathing facilities
- Laundry facilities
- Trash collection equipment and procedures
- The condition of screens on exterior doors and windows
- Insect and rodent control facilities
- Safety equipment and means of emergency escape
- Restrictions on storage of hazardous materials

ENFORCEMENT: *Texas Department of Housing and Community Affairs, Austin, Texas 78711 (512-475-3976).* This agency is responsible for inspecting and licensing migrant labor housing in the state. A worker who has a complaint or question about a migrant housing facility covered by this law may contact TDHCA toll-free, at 877-313-3023.

Using a private attorney or public legal service provider, a worker may apply to district court for an injunction to restrain a violation of any provision of the migrant labor housing facilities law and the associated regulations.

INSURANCE AND COMPENSATION

● TEXAS UNEMPLOYMENT COMPENSATION ACT

TERMS: Farm operators and other agricultural employers who pay wages to migrant farmworkers, or to certain other categories of agricultural workers as described below, are required to pay unemployment insurance taxes on their behalf to the state, which credits each worker for the amount of wages reported by the employer.

In turn, unemployed farmworkers who have accumulated the necessary wage credits from working for one or more such employers, and who meet the program's other eligibility rules, may qualify to receive cash unemployment benefits.

Migrant Workers — All wages paid to a farmworker for agricultural services which require the worker to be absent overnight from his or her permanent place of residence are subject to unemployment insurance taxes from the employer, and all such wages are counted in determining the worker's eligibility for and the amount of UI benefits.

Seasonal Workers — Wages paid for agricultural services which do not require the worker's overnight absence from home are subject to unemployment insurance taxes and are counted for UI benefit purposes under either of the following conditions:

- (1) When the worker is performing services in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets or vegetable seeds.
- (2) When the worker is working for a farm operator or farm labor contractor who employs migrant workers doing the same work, at the same time, and at the same location as the seasonal worker.

Other Agricultural Workers — Wages paid to any non-migrant, non-seasonal worker performing agricultural services are subject to UI taxes and are counted in determining the worker's eligibility for benefits under either of these conditions:

- (1) When the worker is employed by an employer who, during any 3-month period (calendar quarter) this year or last, paid cash wages of \$6,250 or more for agricultural labor.
- (2) When the worker is employed by an employer who, for some part of a day in each of 20 different weeks this year or last, employed at least 3 workers in agricultural labor.

ENFORCEMENT: *Unemployment Insurance and Regulation Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-7234; toll-free 800-939-6631).* Claims for unemployment compensation may be filed online, at www.twc.state.tx.us/jobseekers/unemployment-benefits-services.

● TEXAS WORKERS' COMPENSATION ACT

TERMS: Migrant farmworkers, certain seasonal farmworkers, and certain other agricultural workers who are injured on the job, or are disabled by an occupational disease, are generally entitled to (1) immediate medical aid, hospital services, medicines, and other goods and services related to the injury or disease, and (2) cash benefits to compensate for lost earnings due to the injury or disease.

Farm operators and other agricultural employers may meet their obligation to provide such benefits by having workers' compensation insurance covering employees in the following categories:

Migrant Workers — The Workers' Compensation Act applies without exception to workers who are employed in seasonal or temporary agricultural labor and who are required to be absent overnight from their permanent place of residence.

Seasonal Workers — Workers performing farm or ranch work which does not require overnight absence from their permanent residence are covered by the Workers' Compensation Act under any one of the following circumstances:

- (1) While employed in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets, or vegetable seeds.
- (2) While employed by an employer whose gross annual payroll in the preceding year equals or exceeds the seasonal-worker coverage threshold set by the state (\$54,783 in 2017).
- (3) While employed by a farm operator or labor contractor who employs migrant workers performing the same work, at the same time, and at the same location.

Other Agricultural Workers — For year-round farm employees and other non-seasonal, non-temporary agricultural employees, coverage extends to only those workers employed by an employer for whom either of the following applies:

- (1) Had a gross annual payroll in the preceding year at or above the seasonal-worker coverage threshold set by the state (\$54,783 in 2017).
- (2) Employs 3 or more farm or ranch laborers other than migrant or seasonal workers.

As used above, the term "gross annual payroll" includes amounts paid by the farm operator for the services of migrant and seasonal farmworkers and farm labor contractors, but it does not include wages paid to the farmer's family members or business partners.

ENFORCEMENT: *Division of Workers' Compensation, Texas Department of Insurance, Austin, Texas 78744 (512-804-4000).* In general, a job injury must be reported to the employer within 30 days after it happens. Compensation is generally not payable unless a claim has been filed with the Division within one year after the injury or the onset of disability due to an occupational disease.

SPECIAL NOTE: An employer may not fire or in any other way discriminate against a worker because the worker has filed a workers' compensation claim or testified in a related proceeding. A worker who is subjected to retaliation may be entitled to damages and reinstatement.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● MISCELLANEOUS LABOR LAWS (*COERCION OF EMPLOYEE TRADE*)

TERMS: It is illegal for an employer, labor contractor or anyone else to require an employee to do business with a particular company, or to buy food, clothing or other goods from a particular store.

Likewise, it is illegal to discipline or fire an employee, or exclude a worker from employment, for refusing to buy from or otherwise do business with a particular company or store.

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

PESTICIDES AND AGRICULTURAL CHEMICALS

● AGRICULTURE CODE (*PESTICIDE AND HERBICIDE REGULATION*)

TERMS:

Applicator Certification and Licensing — Unless working under the direct supervision of a certified applicator, no one may use a restricted pesticide without being licensed as a certified commercial or non-commercial applicator and authorized by the license to use the pesticide in such a manner. Before a license may be issued, the applicant must be tested to demonstrate competence to safely and effectively use and supervise the use of pesticides.

Financial Responsibility — Applicants for a commercial applicator license must provide the state licensing agency with proof of a bond or liability insurance protecting persons who may suffer damages as a result of the applicant's operations. The amount of the bond or insurance coverage must be no less than \$100,000 for bodily injury, or combined coverage of \$200,000 for each occurrence.

Registration and Inspection of Equipment — Application equipment used by commercial applicators must be registered with the state, and a decal issued by the state agency must be attached in plain sight to each such device. Equipment must be maintained in a condition that will permit safe and proper pesticide application and may be inspected by state officers at any time.

Storage and Disposal of Pesticides — No one may store or dispose of a pesticide or pesticide container in a manner that could result in injury to humans, vegetation, crops, livestock, wildlife or pollinating insects, or pollution of any water supply.

Label Instructions — It is illegal for anyone to use a pesticide in a manner contrary to instructions on the product's label.

ENFORCEMENT: *Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).* A worker or other person with cause to believe that a violation has occurred, or who has experienced adverse effects from a pesticide application, may file a complaint with the Department.

● AGRICULTURE CODE (*AERIAL PESTICIDE APPLICATION*)

TERMS:

Right to Notification — Anyone who works or lives within 1/4 mile of a field to which pesticides may be applied may request that the operator of the farm where the field is located provide notice before pesticides are applied to the field using an airplane or helicopter. The request must be in writing and include the name and address of the person making the request, a telephone number where the person can be reached, the date of the request, and the location of the field for which the request is being made. The request must be sent to the farm operator by certified mail.

Effective Dates — A request for notification remains in effect through December 31 of the year the request is received. Under normal circumstances, the farm operator must begin providing notice within 10 days of receiving the request.

Time and Method of Notification — In general, notification must be given no later than on the day before each scheduled aerial application. The notification can be given either (1) by raising a flag or posting a sign, or (2) by providing the notification in writing, in person or by telephone. The notice must be in English and, when appropriate, in Spanish.

Content of Notice — Regardless of how the notification is given, it must include (1) the planned date and approximate time of the pesticide application, (2) the name of the pesticide to be applied, and (3) the location of the field to which the application will be made.

Removal of Flags or Signs — If flags or signs are used to provide the required notification, they must be lowered or removed within 24 hours after the re-entry period specified on the pesticide label expires. In no case may flags or signs be left up for more than 72 hours after the end of the re-entry period.

Mandatory Notification of Farm Labor Camps — A farm operator planning any aerial pesticide application to a field within 1/4 mile of a licensed farm labor camp, or a field next to labor housing owned or operated by the farm operator, is required to provide prior notification of the application, *without any request by the occupants of the housing*. No later than the day before each such aerial application, the farm operator must provide notification either (1) by telephone or in person to the head of each household residing in the camp, or (2) by written notice posted on a bulletin board accessible to camp occupants.

ENFORCEMENT: *Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).* Anyone who has properly requested prior notification of aerial pesticide applications and who believes that the required warnings described above were not properly given prior to application — or who experiences adverse effects from a pesticide application — may file a complaint with the Department.

● AGRICULTURE CODE (*WORKER PROTECTION*)

TERMS: Farmworkers, as well as workers mixing, loading, transferring or applying pesticides, must be trained in accordance with the worker protection standard established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

Qualified trainers are required to make a record of each training session they conduct, including dated and signed attendance lists. Workers who complete a training session must receive an EPA- or state-approved training verification card identifying the trainee and documenting the trainee's attendance.

ENFORCEMENT: *Pesticide Programs, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).*

● AGRICULTURAL HAZARD COMMUNICATION ACT

TERMS:

Employer Duties — In general, every agricultural employer in Texas who stores or uses more than 55 gallons or 500 pounds of pesticides or other hazardous chemicals each year, and who pays at least \$15,000 in wages for migrant or seasonal agricultural labor or at least \$50,000 for other farm labor, must comply with the following information requirements, among others:

Workplace Chemical List — The employer must keep a listing of the hazardous agricultural chemicals that are used or stored at the workplace in quantities over 55 gallons or 500 pounds. The list must be readily available to the employer's workers, their representatives, and any medical personnel treating workers who may have been exposed to those materials.

Material Safety Data Sheets — For each substance on the workplace chemical list, the employer must obtain a product label or a printed document, known as a "material safety data sheet," containing certain warnings and safety information related to the substance. Material safety data sheets must be attached to the employer's chemical list and made available to the workers, their representatives and treating medical personnel.

Crop Sheets — A worker who is employed by an agricultural operation described above, and who has not participated in a state-administered training program (described below), has a right to request and receive from the employer, for each crop in which the worker will be employed, a crop sheet showing the kinds of chemicals typically used on the crop, the schedule of chemical treatments normally followed, warnings regarding special clothing and other safety measures required or recommended, emergency information, and a summary of the worker's rights under the law. In addition to providing the worker with written copies, the employer must see that the relevant crop sheets are read to the worker at least once each work season.

Agricultural Worker Rights —

Information — Agricultural workers who are employed by a farm operator or other employer subject to this law, and who may be exposed to the chemicals regulated by the law, have a right to be informed of such exposure and a right of access to the employer's workplace chemical list and a copy of any material safety data sheet requested.

Training — Farmworkers are entitled to state-administered training regarding the hazards of the chemicals to which they may be exposed and appropriate safety precautions. The training program includes information on understanding labels and safety data sheets, the proper handling and storage of hazardous chemicals, their health effects, protective clothing and equipment, first-aid treatment, and general safety instructions.

Protective Clothing and Equipment — Employers subject to the law must provide any protective clothing or equipment recommended by a material safety data sheet, crop sheet or state regulation. Such clothing or equipment is in addition to the standard long-sleeve shirt, long pants, boots or shoes, and socks normally provided by the worker.

Labels — Labels on agricultural chemical containers received at the farm may not be removed or defaced. It is unlawful to require a farmworker to work with a hazardous chemical in an unlabeled container, other than a portable container intended for the immediate use of the worker who applies the product.

ENFORCEMENT: *Right to Know Program, Agricultural and Consumer Protection Division, Texas Department of Agriculture, Austin, Texas 78711 (512-475-1620; toll-free 800-835-5832).* Within 90 days of receiving a complaint from a worker who has been denied his or her rights under the Act, or a complaint by a representative of such a worker, the Department must complete an investigation and may bring legal action against any party found in violation.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. Likewise, an employer may not ask or require a worker to give up any rights under this law or the regulations, as a condition of employment.

TRANSPORTATION

● TRANSPORTATION CODE (*MOTOR TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS*)

TERMS: It is illegal to transport 5 or more migrant agricultural workers at any one time a total distance of more than 50 miles within the state, in any vehicle other than a passenger car or station wagon, unless the driver meets certain minimum qualifications and operating rules prescribed in the Texas Transportation Code.

This law does not apply to any migrant worker transporting only the worker or the worker's immediate family, or to private businesses or public agencies that offer transportation to the population at large.

Drivers — No one may drive a motor vehicle used to transport migrant agricultural workers under the conditions outlined above, unless the driver meets specified minimum qualifications. Drivers must be at least 18 years of age, have at least one year's driving experience, be familiar with state driving rules, and have a valid permit authorizing operation of the vehicle. Each driver must have a current doctor's certificate certifying that the driver meets the physical standards prescribed in the law.

Operating Rules — Migrant worker motor vehicles must be driven in accordance with specific rules that apply to those vehicles, as well as with state and local laws and ordinances. Driving while fatigued or operating vehicles above legal speed limits is prohibited. Drivers must assure that vehicle equipment and accessories are in good working order and that passengers and freight are safely loaded. The passenger capacity of any such vehicle may not be exceeded, and passengers must be adequately protected against the elements. Migrant workers may not be transported in closed vehicles without windows or other means of ventilation.

Hours of Service — In any period of 24 hours, a driver is not allowed to operate a migrant transportation vehicle for more than 10 hours (excluding meal and rest stops), unless the driver has rested at least 8 consecutive hours immediately following the 10-hour driving period.

Meal and Rest Stops — There must be a meal stop of at least 30 minutes no less often than once every 6 hours. Passengers must be provided at least one rest stop between meal stops.

Vehicle Equipment — No one who transports migrant workers may operate a vehicle for that purpose unless it is equipped as prescribed in the law. The law's qualitative and numerical standards cover lighting equipment, brakes, coupling devices, tires and heaters, and also regulate such items as floor and sidewall construction, seats, exits, handrails and other aspects of passenger compartment safety. Each vehicle must be equipped with a properly mounted fire extinguisher.

Inspection and Maintenance — Owners and operators of motor vehicles used to transport migrant farmworkers must systematically inspect and maintain them, to ensure they are in safe and proper operating condition.

ENFORCEMENT: These provisions are enforced by state and local law enforcement agencies.

SPECIAL NOTE: A person who transports migrant agricultural workers and presents evidence of compliance with the federal migrant worker transportation standards enforced by the U.S. Department of Transportation (*see entry, U.S. — Transportation*) is considered to have complied with the state provisions described above.

WAGES AND HOURS

● TEXAS MINIMUM WAGE ACT

TERMS:

Minimum Wage — Texas agricultural workers (other than those engaged in livestock production and dairy farming) are entitled to pay at a rate no less than the federal minimum wage, currently \$7.25 an hour.

Exceptions — The state minimum wage law *does not apply* to:

- (1) Workers who are under 18 years of age and have not graduated from high school or a vocational training program.
- (2) Workers under 20 who are regularly enrolled in high school, college or a vocational training program.

Pieceworkers — Regardless of age, agricultural workers paid on a piece-rate basis are covered by the minimum wage.

Valuation of Meals and Lodging — An employer who provides a farmworker with meals or housing may count the reasonable cost of providing those benefits as part of the minimum wage, but only if the employer customarily furnishes meals or housing to the workers and only if the costs are itemized in the worker's earnings statement, described below.

Earnings Statements — At the end of each pay period, employers are required to give each worker a signed written statement showing (1) the worker's name, (2) the rate of pay, (3) the worker's total earnings for the pay period, (4) any deductions made from the worker's earnings, (5) the net wages paid, and (6) the total number of hours worked if paid by the hour, or the number of units of production if paid on a piecework basis.

ENFORCEMENT: *Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027).* A worker who does not receive the minimum wage, if required, may file a claim for unpaid wages with the Texas Workforce Commission, on a form available online at www.twc.state.tx.us/jobseekers/how-submit-wage-claim-under-texas-payday-law.

● PAYDAY LAW

TERMS:

Paydays — Farmworkers and other employees who are excluded from federal overtime pay requirements must receive their wages no less often than once a month; other workers must be paid at least twice a month. Employers are required to designate paydays in advance and post the schedule in the workplace.

Final Wages — A worker who is laid off or fired is entitled to receive final pay, in full, no later than the 6th day after termination. A worker who quits or resigns must be paid final wages no later than the next regular payday.

Method of Payment — Wages generally must be paid (1) in U.S. currency, (2) by check or other draft that is exchangeable for cash at full face value, or (3) by electronic transfer. Electronic transfer may be used only if the worker has an account at a financial institution that qualifies for direct deposit.

Wage Deductions — An employer is not permitted to withhold any part of a worker's wages unless the employer (1) is ordered to do so by a court of law, (2) is authorized to do so by state or federal law, or (3) has written authorization from the worker to deduct part of the wages for a lawful purpose.

ENFORCEMENT: *Labor Law Section, Texas Workforce Commission, Austin, Texas 78778 (512-475-3027).* A worker who does not receive his or her earnings in accordance with these provisions may file a wage claim with the Workforce Commission, no later than 180 days after the wages became due for payment. A wage claim form is available on the Commission's website, at www.twc.state.tx.us/jobseekers/how-submit-wage-claim-under-texas-payday-law.

● PROPERTY CODE (FARM, FACTORY, AND STORE WORKERS' LIENS)

TERMS: A farmworker who does not receive payment in full for services performed on a crop has a legal right to a portion of the crop and other property belonging to the farmer, equal to the amount of the unpaid wages.

To enforce this right, or lien, the worker must present a written statement of the claim to the employer and file the claim with the county clerk in the county where the work was performed, both within 30 days after the wages were due. No later than 6 months after filing the claim, the worker must file suit in court to foreclose the lien.

ENFORCEMENT: As noted above, enforcement of a worker's lien requires court action. Farmworkers who wish to use this method to collect unpaid wages should consult a private attorney or public legal services program.

Utah

CHILD LABOR

● CHILD LABOR LAWS

TERMS: Children under the age of 16 generally are not allowed to work in any occupation during school hours. Furthermore, no child under 16 may work before or after school for more than 4 hours a day, nor before 5:00 a.m. or after 9:30 p.m., except on days before non-school days. At no time may a person under 16 work more than 8 hours in any 24-hour period, or more than 40 hours in any week.

In general, no one under 18 years of age may work in an occupation declared hazardous by the U.S. Department of Labor (*see entry, U.S. — Child Labor*).

ENFORCEMENT: *Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238).*

● COMPULSORY EDUCATION LAW

TERMS: Every person having control of a child between 6 and 18 years of age is required to send the child to a public or private school — or request an exemption allowing the child to be home-schooled — during the school year of the district where the child lives.

Among other exceptions, a local school board may partially excuse from the attendance requirement a minor over the age of 16 who has completed the 8th grade, to allow the child to enter employment or attend a trade school while attending school part-time.

ENFORCEMENT: These provisions are enforced by the local school boards.

CIVIL RIGHTS

● UTAH ANTIDISCRIMINATION ACT

TERMS: With certain exceptions, it is illegal for an employer who has 15 or more employees on each working day in 20 or more different weeks of the current or previous year, to discriminate in any of the following ways:

- (1) To refuse to hire or promote an individual, who is otherwise qualified, because of race, color, sex, pregnancy or childbirth, age (40 or older), religion, national origin, disability, sexual orientation, or gender identity.
- (2) To fire, demote, or discriminate in matters of pay or the terms and conditions of employment, against a person who is otherwise qualified, on any of the above-mentioned grounds.
- (3) To print or circulate any statement or advertisement, or use any form of job application, which expresses any preference or discrimination as to race, color, religion, sex, pregnancy or childbirth, national origin, age, disability, sexual orientation, or gender identity.

Exceptions — Nothing in the law prevents employers from hiring on the basis of religion, sex, pregnancy, childbirth, age, national origin, disability, sexual orientation, or gender identity when any such characteristic is a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

Similar prohibitions against discrimination also apply to employment agencies and labor organizations.

ENFORCEMENT: *Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238).* Anyone who has been affected by an act of illegal employment discrimination may request action by the Division, at any time within 180 days after the alleged practice occurred.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● UTAH OCCUPATIONAL SAFETY AND HEALTH ACT

TERMS: In general, farm operators and most other employers in Utah are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state labor commission has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● WORKERS' COMPENSATION ACT (*PROTECTION OF LIFE, HEALTH, AND SAFETY*)

TERMS: Farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are prohibited from the following acts, which are regarded as violations of the state workers' compensation law:

- (1) Maintaining a workplace that is not safe.
- (2) Requiring or knowingly permitting an employee to be in a workplace that is not safe.
- (3) Failing to provide and use safety devices and safeguards.
- (4) Failing to adopt and use methods and processes reasonably adequate to render the job and workplace safe.
- (5) Failing or neglecting to do every other thing reasonably necessary to protect the life, health and safety of their employees.

When a job-related injury is found to have been caused by the employer's intentional failure to comply with the Act or its associated regulations, whatever monetary compensation is otherwise payable to the worker may be increased by 15 percent.

ENFORCEMENT: *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).*

HOUSING

● UTAH HEALTH CODE (*MINIMUM RULES OF SANITATION*)

TERMS: Any building, tent, or other structure used as living quarters for groups of migrant workers must be constructed and maintained in accordance with detailed standards contained in the state health department rules. Among other factors considered in determining if a housing facility meets the standards are these:

- The camp site
- Quality and maintenance of structures
- The water supply
- The wastewater disposal system
- The plumbing system
- Toilet and bathing facilities
- Laundry facilities
- Sleeping accommodations
- Food service facilities
- Solid waste management

ENFORCEMENT: These provisions are enforced by local health departments.

Technical assistance for enforcing these standards may be provided by the *Bureau of Epidemiology, Division of Disease Control and Prevention, Utah Department of Health, Salt Lake City, Utah 84114 (801-538-6191)*.

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY ACT

TERMS: Every farm operator or other agricultural employer who paid \$20,000 or more for agricultural labor in any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for some part of a day in each of 20 different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Division, Utah Department of Workforce Services, Salt Lake City, Utah 84145 (801-526-9235; toll-free 800-848-0688)*. Claims for unemployment compensation may be filed online, at jobs.utah.gov/ui/InitialClaims.

● WORKERS' COMPENSATION ACT

TERMS: Farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to have workers' compensation insurance coverage, or provide the state agency with proof of their financial ability to pay compensation directly, in the event of accidental injury of an employee on the job.

Farmworkers who are injured while performing labor for such an employer are generally entitled to immediate and continuing medical treatment, hospital care, medicines and related services, at the employer's expense, as well as cash disability benefits in the event of disablement due to the injury.

ENFORCEMENT: *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090)*. A worker who is injured in an employment-related accident should notify the employer promptly, but in no case more than 180 days after the injury occurred.

● UTAH OCCUPATIONAL DISEASE ACT

TERMS: Farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to pay compensation and associated medical costs in the event of an employee's disability or death from an occupational disease. An employer may meet the liability for these benefits by obtaining occupational disease compensation insurance or by qualifying as a self-insurer.

Farmworkers who suffer a disease or illness caused or made worse by work performed for such an employer are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

ENFORCEMENT: *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090)*.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS:

Licensing — It is illegal for anyone to engage in the business of arranging jobs for workers, or to act as a go-between for employers and job-seekers, without first obtaining an employment agency license. As one of several licensing requirements, the applicant must post a bond in the amount of \$1,000, to guarantee payment of any damages that may result from the agency's operations.

Fees for Services — Private employment agencies must maintain a schedule of their fees, and the schedule must be posted where it is plainly visible to potential clients. No agent may charge a fee greater than 25 percent of a worker's actual earnings during the first 30 days on the job if the worker is terminated during the first 30 days.

Disclosures — Employment agencies and agents are required to provide every worker referred to employment with a copy of the terms of the job, including the amount of the fees received by the agent, the type of work to be performed, the wage rate to be paid, the expected duration of the job, and the name and address of the employer.

Prohibited Acts — Among other offenses defined in the law, it is a crime for an employment agent to give any false job information or to misrepresent the terms and conditions of any employment.

ENFORCEMENT: The city, town or county in which an employment agency carries on its business is responsible for licensing the agency, and for handling complaints and questions regarding the fees charged by employment agencies for their services.

A worker who has suffered any loss due to unlawful or improper practices by an employment agency or agent may bring suit against the agent's bond, using a private attorney or public legal services program.

PESTICIDES AND AGRICULTURAL CHEMICALS

● UTAH PESTICIDE CONTROL ACT

TERMS:

Commercial Applicator Licensing — It is illegal for anyone to apply pesticides for hire without becoming certified and obtaining a commercial applicator's license from the state. Before a commercial license can be issued, the applicant is required to pass both a general examination and a more specific test, both designed to demonstrate knowledge and ability to apply pesticides safely and effectively.

Private Applicator Licensing — An agricultural producer who applies restricted pesticides on his or her own land must be certified and licensed as a private applicator. Private applicator certification generally requires that the applicant demonstrate the ability to read and understand pesticide label directions, demonstrate competency in safely mixing and applying pesticides, and pass a related written examination.

Prohibited Acts — No one may store or dispose of any pesticide or pesticide container in a way that would cause injury to humans, vegetation, crops, livestock, wildlife, or beneficial insects, or pollute any waterway. It is unlawful for anyone (1) to apply a pesticide in a manner contrary to instructions and warnings on the product's label or in violation of state or federal restrictions, (2) to operate in a faulty or careless manner, or (3) to use pesticides without having the proper licensing or certification required for such use.

ENFORCEMENT: *Pesticide Program, Plant Industry and Conservation Division, Utah Department of Agriculture and Food, Salt Lake City, Utah 84114 (801-538-7183).*

● UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational safety and health law, the state labor commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● UTAH OCCUPATIONAL SAFETY AND HEALTH ACT (ANHYDROUS AMMONIA)

TERMS: Under Utah's occupational safety and health law, the state labor commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Utah's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Compliance Section, Occupational Safety and Health Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6901).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

WAGES AND HOURS

● UTAH MINIMUM WAGE ACT

TERMS: Farm employers in Utah that did not use more than 500 worker-days of agricultural labor during any calendar quarter of the preceding calendar year (for example, 50 workers employed for 10 days, 20 workers employed for 25 days, or any other such combination) are generally required to pay their adult workers at least \$7.25 for every hour of labor.

Their workers who are under age 18 must receive at least \$4.25 an hour during their first 90 days on the job, and \$7.25 thereafter.

Exceptions — The state minimum wage *does not apply* to any farmworker who (1) is employed as a piecework-paid harvest laborer in an operation customarily paid on a piecework basis in the region of employment, or (2) was employed in agriculture for less than 13 weeks during the preceding year.

ENFORCEMENT: *Antidiscrimination and Labor Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6801; toll-free 800-222-1238).* The Division has authority to accept and investigate complaints of non-payment of the state minimum wage, and to work with local and state prosecuting attorneys to enforce compliance.

As an alternative to filing a claim with the Division, a worker may take legal action in civil court against the employer involved, using a private attorney or public legal service provider. A civil suit may be filed no later than 2 years after the alleged violation.

● INDIVIDUAL INCOME TAX ACT (WITHHOLDING OF TAX)

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31, the employer is required to provide the worker with a written statement showing the total amount of wages paid to the worker throughout the year and the amount of state income tax withheld.

ENFORCEMENT: *Utah State Tax Commission, Salt Lake City, Utah 84134 (801-297-2200; toll-free 800-662-4335).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Vermont

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Age Restrictions —

Children Under Age 12 — With parental permission, minors under 12 may work in non-hazardous jobs during non-school hours on any farm where none of the workers are covered by the federal minimum wage (*see entry, U.S. — Wages and Hours*).

Children Age 12 and 13 — During vacation periods and before and after school, children 12 and 13 years of age may work in non-hazardous agricultural activities provided they have written permission from their parent or guardian, or are working on the same farm as their parent or guardian.

Children Age 14 and Over — Except for the hours limitation discussed below, there are generally no restrictions on the employment of workers 14 years old and older in non-hazardous agricultural activities.

Working Hours — No child under 14 may be employed in any occupation during school hours. No child under 16 years of age may be employed for more than 8 hours in any one day or more than 40 hours in any one week.

Employment Certificates — Employers are forbidden from hiring anyone under the age of 16 during school hours, unless the child has a certificate issued by the state authorizing such employment. Issuance of a certificate depends on the child's good standing in school, proof of age, and a doctor's statement of the child's physical fitness.

Hazardous Occupations — Among the activities considered hazardous, and thus closed to children under 16, are (1) driving a tractor of over 20 horsepower, (2) operating or helping to operate power harvesting equipment, (3) working from a ladder at a height of over 20 feet, and (4) driving a vehicle transporting passengers.

ENFORCEMENT: *Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204).*

● COMPULSORY ATTENDANCE LAW

TERMS: With few exceptions, every person having control of a child between the ages of 6 and 16 must assure that the child attends a public school, an approved independent school or education program, or a home study program, for the full number of days for which the school or program is held.

ENFORCEMENT: These provisions are enforced by truant officers appointed by the local school boards, and by local peace officers.

CIVIL RIGHTS

● FAIR EMPLOYMENT PRACTICES LAW

TERMS: With only limited exceptions, it is illegal for employers in Vermont to discriminate against an employee or job applicant because of the individual's race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age (18 or over), or to discriminate against a qualified individual with a disability.

Similarly, employers are generally prohibited from publishing or circulating any job notice or advertisement which indicates a preference or discrimination based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, age, or disability.

ENFORCEMENT: *Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195).*

As an alternative to filing a complaint with the Attorney General's office, a person adversely affected by a violation of these provisions may file suit in superior court, using a private attorney or public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Complaints of retaliation should be reported to the Attorney General's Office.

HEALTH AND SAFETY

● OCCUPATIONAL SAFETY AND HEALTH LAWS

TERMS: In general, farm operators and most other employers in Vermont are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state labor commissioner has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the Vermont Department of Labor at any time within 30 days after the violation.

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*FIELD SANITATION*)

TERMS: Under the authority of the state occupational safety and health laws, the state labor commissioner has adopted regulations requiring certain agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to those farm employers that have more than 10 employees on any given day in hand-labor operations in the field.

ENFORCEMENT: *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the Vermont Department of Labor at any time within 30 days after the violation.

HOUSING

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the state occupational safety and health laws, the state labor commissioner has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Vermont's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the Vermont Department of Labor at any time within 30 days after the violation. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: In general, farm operators and other agricultural employer who paid \$20,000 or more for farm labor during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more farmworkers for some part of a day in 20 or more different weeks this year or last, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4333).* Workers who are temporarily without a job and who believe they may qualify for benefits may file a claim by toll-free telephone, at 877-214-3330, or online at uipublic01.labor.vermont.gov.

● EMPLOYER'S LIABILITY AND WORKERS' COMPENSATION LAW

TERMS: A farm operator or other agricultural employer who pays \$10,000 or more in wages during the year is required to have workers' compensation insurance or have sufficient financial resources to pay compensation directly in the event of a worker's injury on the job.

A worker who performs agricultural services for such an employer and who is injured in an accident connected with the job is entitled to immediate medical care, hospital services and related supplies, as well as regular cash benefits if disability results from the injury. If the injury leads to the worker's death, benefits are payable to the worker's surviving dependents.

ENFORCEMENT: *Workers' Compensation Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-2286).* A worker who is injured on the job must promptly notify the employer of the accident. In general, no claim for compensation is valid unless it is filed with the employer within 6 months after the injury or death of the worker.

SPECIAL NOTE: An employer may not fire or discriminate against a worker because the worker has filed a workers' compensation claim, and it is also illegal for an employer to refuse to hire a job applicant because the applicant has ever filed a claim. Any such act of retaliation or discrimination should be reported to the *Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3171).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE CONTROL LAW

TERMS: Agricultural producers who use or supervise the use of restricted pesticides on their crops are required to obtain a private applicator certificate from the state. Such a certificate may not be issued unless the applicant passes written examinations demonstrating competency in the safe handling of restricted pesticide products. Similarly, anyone who charges a fee to apply any type of pesticide must have a commercial applicator certificate, which requires passing written examinations specific to the category of operation he or she will engage in.

Among other requirements and restrictions, pesticide storage areas must not be accessible to unauthorized users or to wildlife. Excess pesticides and pesticide containers must be disposed of in accordance with instructions on the product label.

ENFORCEMENT: *Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431).*

● PESTICIDE CONTROL LAW (AERIAL APPLICATORS)

TERMS: Individuals who apply pesticides from the air must be certified as aircraft pest control applicators and must obtain certification in the specific category of activity in which they will engage, which may include agriculture.

To qualify for certification, the applicant must pass prescribed examinations to assure the individual's skill and knowledge regarding the safe application of pesticides from the air. Among the topics tested are weather and drift, calibration of aerial equipment, pesticide loading procedures, and labeling.

Before treating agricultural commodities, aerial operators must obtain an annual permit.

ENFORCEMENT: *Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-2431).*

● STATE AERONAUTICS LAWS (OPERATION OF AIRCRAFT)

TERMS: At least 10 days before making a flight for the purpose of crop dusting or spraying pesticides, the owner of the aircraft to be used must apply to the state for a permit. Permission to conduct aerial pesticide operations must be renewed annually.

The applicator is also required to have a valid pesticide operator's or applicator's license issued by the state agriculture department for the appropriate type of aerial pesticide application to be performed.

ENFORCEMENT: *Aviation Section, Operations Division, Vermont Agency of Transportation, Montpelier, Vermont 05633 (802-828-2723).*

The agency responsible for licensing pesticide applicators in the state is the *Pesticide Management Section, Vermont Agency of Agriculture, Food and Markets, Montpelier, Vermont 05620 (802-828-3475).*

● OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

TERMS: Under the authority of the state occupational safety and health laws, the state labor commissioner has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. Vermont's hazard communication standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the Vermont Department of Labor at any time within 30 days after the violation. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

● OCCUPATIONAL SAFETY AND HEALTH LAWS (ANHYDROUS AMMONIA)

TERMS: Under the authority of the state occupational safety and health laws, the state labor commissioner has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Vermont's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Vermont Occupational Safety and Health Administration (VOSHA), Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-5084).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. A worker who has been subjected to retaliation may submit a discrimination complaint to the Vermont Department of Labor at any time within 30 days after the violation. As an alternative, the worker may bring suit against the employer in civil court, using a private attorney or public legal service provider.

WAGES AND HOURS

● WAGE PAYMENT LAW

TERMS:

Paydays and Pay Periods — Workers must receive their wages weekly, unless the employer notifies the workers in writing of his or her intention to pay every 2 weeks or twice a month. In any case, not more than 6 days may elapse between the end of a pay period and the corresponding date of payment.

Final Wages — A worker who voluntarily leaves the job must receive final pay on the next regular payday (or on the following Friday, if there is no regular payday). An employee who is fired or laid off must be paid in full within 72 hours after termination.

Method of Payment — Under most circumstances, wages may not be paid in any form other than (1) in lawful money, (2) by check, (3) by direct deposit to a bank or other financial institution, or (4) by credit to a payroll card account in a federally insured bank or other financial institution.

Payroll cards may be used to pay wages only if the worker agrees to it, and the payroll card account must allow the worker at least 3 free withdrawals, one of which must permit withdrawal of the entire balance. None of the employer's costs for a payroll card account may be passed on to the worker.

Payment of wages using vouchers, store orders, or other non-cash methods is generally prohibited.

ENFORCEMENT: *Wage and Hour Program, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-4204).* A worker who has not received all wages due may file a complaint with the Department.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to recover unpaid wages, using a private attorney or a public legal services program.

SPECIAL NOTE: It is illegal for an employer to fire or otherwise retaliate against a worker because (1) the worker filed a complaint of a violation of the wage payment law, (2) the worker has cooperated with the state labor department in an investigation of a violation, or (3) the employer believes the worker is going to file such a complaint or cooperate in such an investigation. A worker who has suffered from an act of retaliation may take action in civil court for damages, using a private attorney or public legal service provider.

● INCOME TAX LAW (*WITHHOLDING OF TAXES AT THE SOURCE*)

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

ENFORCEMENT: *Compliance Division, Vermont Department of Taxes, Montpelier, Vermont 05633 (802-828-2865; toll-free 866-828-2865).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Virginia

CHILD LABOR

● CHILD LABOR LAW

TERMS:

Minimum Age — Children as young as 12 years old may be employed in non-hazardous operations on farms and in orchards with no other restrictions, provided the employment takes place outside school hours and they have the consent of their parent or guardian.

Meal Periods — No child may be employed or permitted to work for more than 5 hours straight without a meal break of at least 30 minutes.

Hazardous Occupations — No child under 16 years old may be employed in an occupation declared hazardous by the state labor commissioner. Among the prohibited agricultural occupations are (1) operating a tractor of over 20 horsepower, (2) operating or helping to operate power-driven harvesting machines, (3) working from a ladder at a height of over 20 feet, (4) working inside a grain elevator or silo, (5) driving a motor vehicle transporting passengers, and (6) handling or applying pesticides, anhydrous ammonia or other agricultural chemicals.

ENFORCEMENT: *Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, every parent or other person in control of a child who has reached the age of 5 by September 30 in any school year, but who is not yet 18, must send the child to a public, private, denominational or parochial school, or have the child privately taught or tutored, during the entire period in which the public schools are in session, and for the same number of days and hours.

However, the parents of a child who is 5 years old by September 30 may be excused from this requirement if they notify the local school board that they do not want the child to attend school until the following year.

ENFORCEMENT: These provisions are enforced locally by school attendance officers appointed for that purpose by the local school boards.

CIVIL RIGHTS

● VIRGINIA HUMAN RIGHTS ACT

TERMS: With some narrow exceptions, it is unlawful for an employer with more than 5 but fewer than 15 employees to fire a worker because of the worker's race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions (including breastfeeding).

Likewise, no employer with more than 5 but fewer than 20 employees may fire a worker because the worker is 40 years old or older.

ENFORCEMENT: *Division of Human Rights and Fair Housing, Virginia Office of the Attorney General, Richmond, Virginia 23219 (804-225-2292).*

In the case of a worker who is fired in violation of this law, instead of filing a complaint with the Division of Human Rights, the worker may take legal action against the employer directly, using a private attorney or public legal service provider. Legal action must be filed, though, no later than 300 days after the worker was fired. If the worker filed the complaint with the Division of Human Rights first, a private suit generally may be filed no later than 90 days after the Division makes a final decision on the complaint.

● **EQUAL PAY LAW**

TERMS: In general, it is illegal for an employer to pay wages to any worker at a rate less than the rate the employer pays workers of the opposite sex for equal work, on jobs which require equal skill, effort and responsibility and are performed under similar working conditions.

Exception — This law does not apply to large farming operations that come under the federal equal pay law (see entry, U.S. — Civil Rights).

ENFORCEMENT: *Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104).* The Division may investigate complaints under this law but has no authority to order an employer to comply when a violation is found.

If a complaint to the Division does not resolve the problem, a worker who has not received full pay because of illegal sex discrimination may sue the employer directly, using a private attorney or public legal services program. Such a suit normally may not be filed any later than 2 years after the unpaid wages were originally due.

HEALTH AND SAFETY

● **OCCUPATIONAL SAFETY AND HEALTH LAWS**

TERMS: In general, farm operators and most other employers are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state safety and health codes board has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*) and apply only to farm operations that employ more than 10 workers in a given year or that maintain a temporary labor camp.

ENFORCEMENT: *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly, using a private attorney or public legal service provider.

● **OCCUPATIONAL SAFETY AND HEALTH LAWS (FIELD SANITATION)**

TERMS: Under Virginia's safety and health laws, the state safety and health codes board has adopted regulations requiring agricultural employers to provide their employees with drinking water, toilets, and handwashing facilities in the field. The state field sanitation standards are nearly identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Health and Safety*).

Except for the drinking water requirement, the state standards apply only to farm employers who have more than 10 workers on any given day in hand-labor operations in the field. All agricultural employers must provide drinking water to their employees in the fields, regardless of the number of workers.

ENFORCEMENT: *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly, using a private attorney or public legal service provider.

HOUSING

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*TEMPORARY LABOR CAMPS*)

TERMS: Under the authority of the occupational safety and health laws, the state safety and health codes board has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Virginia's temporary labor camp standards are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) and apply to all farm operators and other agricultural establishments that have worker housing facilities.

ENFORCEMENT: *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly, using a private attorney or public legal service provider.

● MIGRANT LABOR CAMP LAW

TERMS: This law regulates the operation of migrant labor camps in Virginia, briefly defined as one or more structures, vehicles or other facilities used as living quarters for one or more people, at least one of whom is a migrant worker engaged in agricultural activities, including related food processing.

Permits — No one may operate a migrant labor camp without first obtaining an annual permit from the state. A permit application must be submitted at least 30 days before the camp is to be opened.

Inspections — After the initial permit inspection, a camp may be inspected as often as necessary while it is occupied.

Standards — In general, in order to qualify for a permit and keep the permit in force, migrant labor housing must meet the minimum standards prescribed by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*). Operators of migrant camps built before early 1980, however, may choose to comply with either the OSHA standards or the farmworker housing regulations of the U.S. Employment and Training Administration (*see entry, U.S. — Housing*).

In addition to meeting the OSHA or ETA standards, migrant camps in Virginia must also comply with supplemental requirements related to construction, the water supply, sewage disposal, trash and garbage collection, and storage of hazardous materials.

ENFORCEMENT: *Office of Environmental Health Services, Virginia Department of Health, Richmond, Virginia 23219 (804-864-7473).*

In addition to this agency, local health departments may also conduct periodic inspections of migrant labor camps to check compliance with the labor camp law and regulations.

INSURANCE AND COMPENSATION

● VIRGINIA UNEMPLOYMENT COMPENSATION ACT

TERMS: A farm operator or other agricultural employer who pays \$20,000 or more in agricultural wages in any 3-month period (calendar quarter) in a year, or employs 10 or more farmworkers for any part of a day in each of 20 different weeks in a year, must pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed farmworkers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules. Benefits currently range from \$60 to \$378 a week, depending on the worker's past earnings.

ENFORCEMENT: *Unemployment Compensation Division, Virginia Employment Commission, Richmond, Virginia 23219 (804-786-3061).* Unemployment compensation claims may be filed by toll-free telephone, at 866-832-2363, or online, at www.vec.virginia.gov/unemployed/online-services/apply-for-unemployment-benefits.

● VIRGINIA WORKERS' COMPENSATION ACT

TERMS: Farm operators and other agricultural establishments that regularly employ more than 3 full-time workers are legally responsible for meeting the cost of medical treatment and related expenses for any of their employees who are accidentally injured on the job, and for paying cash benefits to the worker or the worker's dependents when the injury results in disability or death. Employers typically meet this obligation by purchasing workers' compensation insurance.

ENFORCEMENT: *Virginia Workers' Compensation Commission, Richmond, Virginia 23220 (toll-free 877-664-2566).* A worker who is injured on the job must notify the employer of the accident as soon as possible. A claim for workers' compensation normally will not be accepted unless it is filed with the Commission within 2 years after the accident.

SPECIAL NOTE: An employer is prohibited from firing a worker solely because the worker has filed or intends to file a workers' compensation claim, or because the worker has testified or is about to testify in any workers' comp-related hearing. A worker who has suffered from retaliation take legal action in civil court against the employer for damages, using a private attorney or public legal service provider.

PESTICIDES AND AGRICULTURAL CHEMICALS

● VIRGINIA PESTICIDE CONTROL ACT

TERMS:

Applicator Certification — All commercial pesticide applicators, as well as private agricultural users of restricted pesticides, must be certified as competent to use pesticides safely and effectively. As conditions for certification, commercial applicators are required to meet certain minimum education or experience qualifications, complete a state-approved training course, and pass a written examination.

Within 90 days after applying for certification, private applicators must take an examination for each type of pesticide application they plan to perform.

Financial Responsibility — Licensed pesticide application businesses (which may include individual pesticide applicators) must obtain a surety bond or liability insurance protecting persons who may suffer damage or injury as a result of the misapplication of pesticides. At a minimum, the bond or insurance must provide at least \$100,000 coverage for property damage, \$100,000 for personal injury to or death of one person, and \$300,000 per occurrence.

Prohibited Acts — Each of the following acts, among others, is unlawful and is grounds for denial, suspension or revocation of licensing and certification:

- (1) Use or disposal of a pesticide contrary to instructions or restrictions on the product label.
- (2) Application of pesticides in a careless manner.
- (3) Refusal or failure to keep required records or make required reports.
- (4) Use of a restricted pesticide without certification or direct supervision by a certified applicator.

ENFORCEMENT: *Office of Pesticide Services, Virginia Department of Agriculture and Consumer Services, Richmond, Virginia 23218 (804-786-3798; 804-371-6560).* Anyone claiming damages from the use or application of a restricted pesticide may file a written report of the incident with the Department.

● OCCUPATIONAL SAFETY AND HEALTH LAWS (HAZARD COMMUNICATION)

TERMS: Under the authority of the occupational safety and health laws, the state safety and health codes board has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or maintain a temporary labor camp.

ENFORCEMENT: *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly, using a private attorney or public legal service provider.

● OCCUPATIONAL SAFETY AND HEALTH LAWS (*ANHYDROUS AMMONIA*)

TERMS: Under Virginia's safety and health laws, the state safety and health codes board has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Virginia's ammonia safety regulations are identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply only to farm operations that employ more than 10 workers in a given year or maintain a temporary labor camp.

ENFORCEMENT: *Occupational Safety and Health Compliance, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-786-7776).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by these provisions. Within 60 days of any such retaliatory act, the worker may file a complaint with the state enforcement agency, which has authority to bring suit in circuit court for relief. If the agency refuses to issue a charge for the alleged violation, the worker may file a civil complaint against the employer in circuit court directly, using a private attorney or public legal service provider.

WAGES AND HOURS

● WAGE PAYMENT LAW

TERMS:

Pay Periods — Employers must establish regular pay periods and, in general, must pay salaried personnel at least once a month and hourly workers at least twice a month or every 2 weeks.

Final Wages — Upon termination of employment, a worker is entitled to final pay on or before the date the worker would have been paid for the services involved had the employment not ended.

Medium of Pay — Employers are not permitted to pay wages in any form other than (1) in lawful U.S. money, (2) by check payable at face value in lawful U.S. money on demand, (3) by electronic fund transfer, in lawful U.S. money to an account at a bank selected by the worker, or (4) by credit to a prepaid debit card or card account from which the worker is able to withdraw or transfer funds.

Deductions from Pay — No employer may withhold any part of a worker's wages without the signed authorization of the worker, except for payroll or withholding taxes or in accordance with law. Furthermore, an employer may not force a worker to sign any contract or agreement requiring the worker to give up any part of his or her wages as a condition for hiring or continued employment, unless authorized by law.

ENFORCEMENT: *Labor and Employment Law Division, Virginia Department of Labor and Industry, Richmond, Virginia 23219 (804-371-3104).* A worker who does not receive pay as required by this law, or who is negatively affected by any practice forbidden by this law, may file a complaint with the Department.

● INCOME TAX WITHHOLDING LAW

TERMS: A farm employer who pays at least \$2,500 in wages for agricultural labor during the year is required to withhold federal income tax from each worker's wages. In those cases, the employer must also withhold *state* income tax.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold *state* income tax as well.

No later than the following January 31, the employer is required to provide the worker with a written statement showing (1) the employer's name, (2) the worker's name and Social Security number, (3) the worker's total wages, and (4) the amount of state income tax withheld.

ENFORCEMENT: *Virginia Department of Taxation, Richmond, Virginia 23218 (804-367-8037).*

SPECIAL NOTE: Even when a farm employer is not required to withhold state income taxes from a worker's wages, the worker may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Washington

CHILD LABOR

● INDUSTRIAL WELFARE LAWS (*WAGES AND WORKING CONDITIONS OF MINORS*)

TERMS:

Minimum Age — While children under the age of 14 generally may not be employed, 12- and 13-year-olds may work in the hand harvest of berries, bulbs and cucumbers, and in the hand cultivation of spinach, during weeks when school is not in session.

Maximum Hours — Children required by law to attend school generally may not work during school hours. These additional restrictions apply:

Children Under Age 16 — When school is in session, children under the age of 16 may work in agricultural jobs up to 3 hours a day on school days, up to 8 hours a day on non-school days, and up to 21 hours a week. When school is not in session, children under 16 may work up to 8 hours a day and 40 hours a week.

Minors Age 16 and 17 — When school is in session, 16- and 17-year-olds may work up to 28 hours a week, 4 hours a day on school days, and 8 hours a day on non-school days. When school is not in session, they may be employed for up to 10 hours a day and 50 hours a week (or up to 60 hours a week in the mechanical harvest of peas, wheat and hay).

In general, no one under the age of 18 may be employed for more than 6 days in any one week.

Time-of-Day Restrictions — On days when school is in session, children under 16 generally may not be employed before 7:00 a.m. or after 8:00 p.m. When school is not in session, employment of workers under 16 is generally prohibited before 5:00 a.m. and after 9:00 p.m.

In most cases, 16- and 17-year-olds may not be employed before 5:00 a.m. or after 9:00 p.m., but may work until 10:00 p.m. on up to two consecutive nights before a school day.

Meal and Rest Periods — Children and adults employed in agriculture for more than 5 hours on a given day are entitled to a meal period of at least 30 minutes. Employees working 11 or more hours a day must be allowed at least one additional 30-minute meal period. Likewise, employees must be allowed a paid rest break of at least 10 minutes in each 4-hour period of employment.

Employment Permits — Within 3 days after hiring anyone under 18 years of age for agricultural work, the employer must apply to the state labor department for a permit to employ minors. If approved, the permit will authorize the employer to employ any number of minors at the same workplace, for up to one year.

Prohibited Work — Among many other hazardous occupations listed in the agricultural regulations, children under the age of 16 are prohibited from:

- (1) Operating a tractor of over 20 horsepower.
- (2) Operating or assisting in the operation of power-driven harvesting machines.
- (3) Working from a ladder at a height of more than 20 feet.
- (4) Driving a motor vehicle carrying passengers.
- (5) Working inside a silo or grain storage facility.

No one under 18 may be employed to mix, handle, load or apply pesticides, anhydrous ammonia or other hazardous agricultural chemicals.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

● MISCELLANEOUS AGRICULTURAL LAWS (*BERRY HARVESTING BY MINORS*)

TERMS: Farm operators and other agricultural employers who are not required to pay the federal minimum wage (*see entry, U.S. — Wages and Hours*) are allowed to employ children younger than 12 years of age in the harvesting of berries, under the following conditions:

- (1) Employment takes place only outside local school hours.
- (2) Employment is with the consent of the child's parent or guardian.
- (3) The berries involved are for sale within the state only and not for out-of-state shipment in any form.
- (4) There are not sufficient workers available in the immediate area to harvest the crop without the labor of workers under 12.
- (5) The employer pays all of the workers engaged in the berry harvest at the same wage rate.

Each basket, package or other container holding berries or berry products picked by an employee under 12 years of age must be distinctively marked to ensure that the berries are not sold or shipped out of state.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, the parent or legal guardian of any child who is at least 8 years old but under 18 must see that the child attends a public school in the district where the child is living, for the full length of the school term, unless the child is attending an approved private school or is receiving approved home-based instruction.

Among other exceptions, children 16 years old and over who have met certain educational requirements, and are regularly and legally employed with the permission of their parents, are exempt from the compulsory attendance requirement.

ENFORCEMENT: The compulsory school attendance law is enforced by the local school districts, through attendance officers and other school personnel appointed for that purpose.

CIVIL RIGHTS

● LAW AGAINST DISCRIMINATION

TERMS: In general, it is illegal for an employer who has 8 or more employees to do any of the following:

- (1) Refuse to hire a person because of the person's age (40 and over), sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or disability (including use of a guide dog or other service animal), unless such refusal is based on a bona fide occupational qualification.
- (2) Fire a worker because of the worker's age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or disability (including use of a service animal).
- (3) Discriminate against a worker in the payment of wages or in other terms or conditions of employment on any of the above-mentioned grounds.
- (4) Print or circulate any statement or advertisement, use any form of job application, or ask employment-related questions that express a preference, limitation or discrimination as to age, sex, marital status, sexual orientation (including gender identity), race, creed, color, national origin, veteran or military status, or any sensory, mental or physical disability (including use of a service animal).

Employment agencies and labor unions are subject to similar prohibitions.

ENFORCEMENT: *Washington State Human Rights Commission, Olympia, Washington 98504 (toll-free 800-233-3247).* Anyone affected by an act of employment discrimination may file a complaint with the Commission at any time within 6 months after the act took place.

SPECIAL NOTE: A person may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

● INDUSTRIAL WELFARE LAWS (*EQUAL PAY*)

TERMS: With very limited exceptions, it is illegal for an employer to pay females a lower wage or salary than that paid to males employed in essentially equal work.

Different pay based in good faith on factors other than gender generally does not constitute discrimination.

ENFORCEMENT: This provision is enforced by public prosecuting attorneys in criminal court.

A worker who has received less than full pay because of unlawful sex discrimination may sue the employer in civil court to collect the unpaid wages, using a private attorney or a public legal services program.

● AGE DISCRIMINATION IN EMPLOYMENT LAW

TERMS: In general, it is illegal for an employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an applicant or employee in relation to pay, promotion or terms of employment, because the applicant or employee is 40 years of age or older.

With state approval, an employer may establish reasonable minimum and maximum age limits for job applicants when the work involved requires unusual physical effort, endurance or training.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

HEALTH AND SAFETY

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973

TERMS: In general, most employers in Washington are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with any state safety and health regulations that apply to their operations.

More specifically, the state labor and industries director has adopted numerous standards that apply specifically to agricultural employers, workers and workplaces, as summarized below.

Accident Prevention Program — Agricultural employers are required to develop a written accident prevention program that includes, among other elements, (1) how, when and where to report injuries and illnesses, (2) how to report unsafe conditions and practices, (3) the use and care of personal protective equipment, (4) emergency procedures, and (5) identification of hazardous materials and how to use them safely.

Safety Training — Employers must provide their workers with instruction in safe work practices at the beginning of their employment, and at least once a month employers must inspect job sites, materials, equipment, and operating procedures. A representative chosen by the workers must be invited and allowed to accompany the employer on the inspection.

First Aid — In the absence of a nearby clinic or hospital to treat injured workers, a person must be adequately trained to provide first aid. Appropriate first aid supplies must be on hand and easily accessible to all workers.

Hand Tools — The use of hoes with handles less than 4 feet long, or any hand tool used for weeding or thinning crops in a stooped position, is prohibited.

Orchard Ladders — At the beginning of employment, employers who require workers to use ladders for tree maintenance or harvesting must provide the workers with training on their proper use, including how to set them up and how to climb down with a full load. Ladders used for orchard harvesting must be checked regularly for defects, must be maintained in good condition at all times, and must be properly stored. Ladders longer than 16 feet are prohibited.

Vehicles and Field Equipment — Tractors and other motor vehicles used on farms and nearby highways must have prescribed lights, reflectors and safety signs, and must be equipped with guards and other safety features described in the regulations. Only qualified drivers who have a current motor vehicle operator's license may drive farm vehicles.

Rollover Protective Structures for Tractors — Farm tractors manufactured after 1976 generally must be equipped with protective structures intended to prevent worker injuries in the event of a rollover. Each such tractor is also required to have a seat belt, and drivers are required to use it. Tractor operators must be trained in proper operating practices at the time of their initial assignment and at least once a year thereafter.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (*FIELD SANITATION AND HEAT EXPOSURE*)

TERMS: Under the Washington Industrial Safety and Health Act, the state labor and industries director has adopted requirements for sanitation facilities in the field and related measures to protect field workers from heat-related illness.

Drinking Water — Without cost to the workers, agricultural employers must ensure that a sufficient quantity of suitably cool drinking water is readily accessible to workers at all times, and the workers must have an opportunity to drink up to one quart of water per hour. The water must meet state or federal public drinking water quality standards and be furnished in sanitary, closable containers. Open containers such as pails or barrels from which water must be poured or dipped are prohibited, as is the use of common drinking cups or dippers.

Handwashing Facilities — Without cost to the workers, agricultural employers must provide one handwashing unit for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be equipped with a tap, a basin and an adequate supply of sanitary running water, soap and single-use hand towels. The handwashing facilities must be located near the required toilet facilities, within 1/4 mile of the worksite or at the point nearest the field where vehicles can still enter. The employer must also provide trash containers for disposal of handwashing waste.

Toilet Facilities — Without cost to the workers, agricultural employers must provide one toilet facility for every 20 workers or fraction thereof engaged in hand-labor operations in the field. Each unit must be ventilated and screened, and have self-closing doors that are lockable from the inside. All toilet facilities must be inspected at the start of the workday to assure that they are functional, clean and sanitary; each unit must be supplied with toilet paper. The toilet facilities must be located near the required handwashing facilities, within 1/4 mile of the worksite or at the point nearest the field where vehicles can still enter. Employers and supervisors must allow workers reasonable time during the work period to use the facilities.

Prevention of Heat-Related Illness — In addition to providing field workers with drinking water in the field, agricultural employers are required to help prevent heat-related illness among the workers, by including this subject in their written accident prevention program and related worker training. Worker training must cover such topics as the factors that can contribute to heat-related illness, the symptoms of heat-related illness, the role of clothing and water consumption in preventing heat-related illness, and the importance of reporting signs of illness to supervisors.

Supervisors are required to relieve from duty any worker showing signs of heat-related illness, take steps to reduce the worker's body temperature, and monitor the worker to determine whether medical attention is necessary.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

HOUSING

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (*TEMPORARY WORKER HOUSING*)

TERMS: The state labor and industries director has adopted standards regulating temporary labor camps provided by employers for the use of their workers. Washington's temporary labor camp standards are very similar to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Housing*) but include unique provisions of particular note, some of which are summarized here:

Licensing — Unlike the OSHA standards, the regulations adopted by the state require that temporary worker housing be licensed, provided the facility is occupied by 10 or more workers, or consists of 5 or more dwelling units. The licensing process is handled by the state health department, as described in the next entry.

Maximum Occupancy — The regulations limit the number of occupants allowed in each camp, based on actual floor space in the sleeping areas and the number of toilet, bathing and other facilities available.

Tents — Tents are allowed to be used as housing for temporary workers, but only while employed for the harvest of cherries. Each tent must be constructed to sleep no more than 15 workers.

Safety Devices — There must be a functioning, properly installed carbon monoxide alarm in each housing unit with a sleeping area. Likewise, there must be a properly installed and working smoke alarm in each sleeping area and in each cooking area. Fire extinguishers are required in units where occupants sleep if the unit does not have a second means of emergency escape.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

The agency responsible for licensing of temporary worker housing facilities in Washington is the *Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

● TEMPORARY WORKER HOUSING LAW

TERMS: Under Washington's temporary worker housing law, the state health department has adopted rules requiring employers who provide sleeping or housing accommodations for their workers on a temporary, seasonal basis, to obtain a license for the facility and comply with related requirements, outlined below.

Licensing — In general, the owner or operator of a temporary worker housing facility must apply to the state health department for a license before the housing is occupied each year. Before a license is issued, the facility must be inspected or the operator must submit and receive approval of a self-survey.

Exception — Camps for workers employed in the harvest of cherries must be inspected before occupancy. A license to operate a cherry harvest camp is limited to one week before the start of the harvest until one week after the harvest ends. Cherry harvest camps are the only form of housing in which tents may be used to house temporary workers.

Maximum Occupant Capacity — The rules limit the capacity of housing facilities, based on floor space and the number of toilet, bathing and related facilities actually available.

Housing Standards — Among many other factors considered in determining if a housing facility meets the standards specified in the state regulations are these: the housing site and structures, the water supply, the electrical system and lighting, laundry facilities, toilet and bathing facilities, sewage facilities, cooking and food-handling facilities, the sleeping accommodations, safety and first-aid equipment, trash collection and disposal facilities, and disease prevention and pest control procedures.

ENFORCEMENT: *Temporary Worker Housing Program, Office of Environmental Health and Safety, Washington State Department of Health, Olympia, Washington 98504 (360-236-3330).* This agency is responsible for inspection and licensing of temporary worker housing facilities in Washington.

SPECIAL NOTE: Temporary worker housing facilities may also be inspected by the *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

INSURANCE AND COMPENSATION

● EMPLOYMENT SECURITY ACT

TERMS: A farm operator or other agricultural employer who paid \$20,000 or more in cash wages for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more agricultural workers for some part of a day in each of 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits.

ENFORCEMENT: *Unemployment Insurance Program, Washington State Employment Security Department, Olympia, Washington 98507 (360-902-9500).* An application for benefits may be filed by toll-free telephone, at 800-318-6022, or online, at secure.esd.wa.gov/home/.

● INDUSTRIAL INSURANCE LAW

TERMS: Like any other employee in the state, a farmworker who is injured on the job, or who is disabled by a disease caused by the worker's employment, is generally entitled to receive medical treatment, wage replacement benefits if unable to work, and other compensation, and if the injury or disease leads to the worker's death, compensation is payable to the worker's surviving dependents. A farmworker who is injured on the job also has the right to necessary medical, surgical and hospital services until reaching maximum medical improvement.

To finance the state industrial insurance program, most employers are required to pay premiums to the state workers' compensation fund or qualify as a self-insurer. One-half the cost of the medical portion of the premium can be deducted and withheld from the workers' wages for those covered by the state fund, and certain other costs are shared equally between the employer and the worker.

ENFORCEMENT: *Insurance Services Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5800).* Any worker injured on the job, or the dependent of any such worker, may file a compensation claim with the Department (or with the employer, if the employer is self-insured). A claim is generally not valid unless filed within one year after the injury or death on which the claim is based.

● FAMILY LEAVE INSURANCE LAW

TERMS: Farm operators, crew leaders and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor during any calendar quarter in the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks this year or last, are subject to the family leave insurance law.

A farmworker who is employed by such an establishment may be eligible for up to 5 weeks of cash benefits if they (1) are unable to perform their regular or customary work because they are caring for a newborn or newly adopted child, and (2) have been employed for at least 680 hours during a certain one-year period leading up to their claim.

The amount of benefits is set by law at \$250 per week for an individual who was regularly working 35 hours or more per week when the period of family leave began. For those regularly working *less* than 35 hours a week, the benefit amount is reduced.

ENFORCEMENT: *No state agency has been designated to administer the family leave insurance program.*

SPECIAL NOTE: *Although passed in 2007 and set to take effect on July 1, 2008, the family leave insurance law has not been implemented.*

LABOR CONTRACTORS AND WORKER RECRUITMENT

● FARM LABOR CONTRACTOR LAW

TERMS:

Licensing — With few exceptions, no one may act as a farm labor contractor in Washington without a contractor's license issued by the state.

Bonding and Insurance — Among other requirements, the state licensing agency may not issue a license unless the applicant (1) posts a bond to ensure compliance with the farm labor contractor law, and (2) obtains a liability insurance policy covering potential injury or damage to people and property as a result of the contractor's business activities and use of any vehicles to transport workers.

Disclosures to Workers — At the time of hiring, recruiting, soliciting or supplying any worker (whichever occurs first), a farm labor contractor must give the worker a written statement showing all of the following information:

- (1) The rate of compensation to be paid and the method for calculating earnings.
- (2) The terms and conditions of any bonus to be paid.
- (3) The terms and conditions of any loan to be made to the worker.
- (4) The conditions and costs of any transportation, housing, meals, health or daycare services, or other benefits to be provided by the contractor.
- (5) The expected length of employment, the approximate start and end dates, and the crops and crop operations involved.

- (6) The terms and conditions under which the worker will be provided with clothing or equipment.
- (7) The location or locations of the job.
- (8) The name and address of the owner of all operations where the worker will be working.
- (9) The existence of any strike or labor dispute at the worksite.
- (10) The name and address of the farm labor contractor.
- (11) The existence of an arrangement with any store or other establishment at the place of employment under which the contractor is to receive a fee or other benefit from any sales by the establishment to the workers.
- (12) The name and address of the contractor's bonding company, and a statement explaining the worker's right to claim against the bond.

This information must be in English and in any other language understood by the worker if the worker does not easily read or understand English.

Pay Statements — Each time a worker is paid by or through a farm labor contractor, the contractor must provide the worker with a written statement itemizing the worker's total earnings, the amount and purpose of each deduction from pay, the number of hours worked, the rate of pay, and the number of units of production if work was done on a piece-rate basis.

Recordkeeping — Farm labor contractors are required to keep a record for each pay period showing the basis of each worker's wages, the number of piecework units performed (if paid piecework), the number of hours worked, the total earnings, the amounts withheld from wages and the purpose of each such deduction, and the amount of net pay. A copy of the record must be given to each farm operator or other user of the worker's labor, who in turn is required to keep the record for no less than 3 years after the end of the period of employment.

Prohibited Acts — Among other violations, it is illegal for anyone acting as a farm labor contractor to engage in any of the following practices:

- (1) Making a misrepresentation or false statement in an application for a license.
- (2) Giving false or misleading information concerning the availability, terms or conditions of employment.
- (3) Sending or transporting a worker to any job site where the contractor knows a strike or lockout is in progress.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

After notifying the Department of the claim, a worker affected by a violation of the farm labor contractor law may sue the contractor involved directly, using a private attorney or a public legal services program. A suit may not be filed any later than 3 years after the violation occurred.

A worker may also take legal action against the contractor's bond to recover unpaid wages or other damages, at any time within 3 years after the expiration of the bond or the contractor's license, whichever occurs first.

SPECIAL NOTE: An employer or farm labor contractor may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

SPECIAL NOTE: A farm operator or other person who uses the services of an unlicensed farm labor contractor is legally responsible — along with the person acting as a contractor — for any damages resulting from the contractor's operation.

● SEASONAL LABOR LAW

TERMS: Whenever anyone recruits workers in Washington for seasonal employment outside the state — when the job will last more than one month and where wages will not be paid until the job is completed and the workers return to Washington — there must be an individual signed contract between the employer and each worker.

A contract for seasonal labor may provide for payment of cash advances or the furnishing of supplies to the worker before wages are earned, and for the payment of money or furnishing of supplies during the season.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).* At the request of a worker, the Department is authorized to investigate any dispute concerning wages earned in seasonal labor. The Department may allow or reject deductions made from the worker's earnings, for money advanced or supplies furnished before or during the season, or for money paid to third parties when authorized by the worker.

LABOR RELATIONS AND UNION REPRESENTATION

● MISCELLANEOUS LABOR LAWS (*STRIKEBREAKING*)

TERMS: Under most circumstances, it is illegal for a person or company not directly involved in a strike or lockout to recruit or offer employment to workers from outside the state, and to bring them into Washington, when the purpose of such activities is to replace workers who are on strike or subject to a lockout, or to have the workers act as pickets where a labor dispute is in progress.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● WASHINGTON PESTICIDE APPLICATION ACT

TERMS:

Licensing and Certification — Individuals who (1) apply pesticides to someone else's property for hire, (2) apply pesticides by hand or using licensed equipment while employed by a pesticide application business, or (3) use or supervise the use of restricted pesticides in the production of agricultural crops, must be licensed by the state to do so. In each case, applicants for a license must be certified as to their knowledge of the nature and effects of pesticides and their ability to apply pesticides safely and effectively.

Exception — The commercial pesticide applicator licensing requirements do not apply to any farmer who owns ground application equipment and applies pesticides only on his or her own crops, or on the crops of other farmers only occasionally and not as a principal or regular occupation.

Bonding or Insurance — The state may not issue a commercial pesticide applicator's license until the applicant has furnished proof of a surety bond or liability insurance policy protecting persons who may suffer legal damages as a result of the applicant's operations. The amount of the bond or insurance must be at least \$50,000 each for property damage and public liability coverage, or \$100,000 combined coverage.

Unlawful Acts — Among other violations, it is illegal for anyone to (1) handle or apply pesticides in a faulty, careless or negligent manner, (2) fail or refuse to keep required pesticide-related records, (3) apply pesticides without having obtained the appropriate class of license for that activity, or (4) fail to maintain the liability insurance required for the class of pesticide license held or required to be held.

ENFORCEMENT: *Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036; toll-free 877-301-4555).*

● WASHINGTON PESTICIDE APPLICATION ACT (*WORKER PROTECTION*)

TERMS: Under the Washington Pesticide Application Act, the state agriculture director has adopted detailed standards for the protection of pesticide handlers and agricultural workers who may be exposed to pesticides in the field. The rules are virtually identical to the worker protection standard established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

ENFORCEMENT: *Compliance Section, Pesticide Management Division, Washington State Department of Agriculture, Olympia, Washington 98504 (360-902-2036); toll-free 877-301-4555).*

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (*PESTICIDE SAFETY FOR WORKERS*)

TERMS:

Worker Protection Standards — The state labor and industries director has adopted detailed, specific standards for the protection of field workers and pesticide handlers. The rules are nearly identical to the worker protection standard established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

Personal Protective Equipment — As additional protection against injuries caused by pesticides and other toxic or hazardous materials, employers must provide and maintain certain personal equipment such as protective clothing, respirators, shields, safety glasses and other devices that create a barrier between the source of the hazard and the worker. Employers are required to instruct the workers in the proper use of personal protective equipment.

Exception — Employers are not required to provide workers with long-sleeve shirts, long-legged pants, socks and other normal work clothing that may provide some protection against workplace hazards.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

● WORKER AND COMMUNITY RIGHT TO KNOW ACT

TERMS:

Information and Training on Agricultural Chemicals — Agricultural employers are required to maintain the material safety data sheets received with incoming shipments of hazardous chemicals, and assure that the information is accessible to their agricultural employees on request. Labels on incoming containers of hazardous agricultural chemicals may not be removed or defaced.

In general, all employees engaged in agricultural production of crops or livestock must be provided with training on the hazardous chemicals in their work area at the time of their initial assignment, and whenever a new hazard is introduced to the workplace, instruction must address the hazards to which the employees will be exposed.

Workers' Rights — A worker or worker representative may request a copy of the material safety data sheet for each hazardous substance to which the worker may be exposed in the work area. The employer must provide the requested information within 3 working days of the request, or the employee may refuse to work with the substance without loss of pay or any other employment privilege until the request is honored.

Recordkeeping — An employer who applies pesticides to an agricultural crop, or who contracts to have pesticides applied to a crop, must keep a record of each such application. Among other information, the record must include (1) the date and time of the pesticide application, (2) the location of the land where the pesticide was applied, (3) the name and EPA registration number of the pesticide product used, (4) the crop or site to which the product was applied, (5) the amount and concentration used, (6) the name and address of the person or persons performing the application, and (7) the wind speed and direction at the time the application took place.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

As an alternative to filing a complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (HAZARD COMMUNICATION)

TERMS: The state labor and industries director has adopted numerous standards that apply specifically to agricultural employers in the state, including rules requiring them to identify the hazardous chemicals in the workplace and to train their employees about those materials.

Hazardous Chemical List — Agricultural employers must compile a list of hazardous chemicals known to be present in the workplace and to which workers there may be exposed. For each item on the list, the employer must obtain from the manufacturer a safety data sheet that includes prescribed information about its hazards and related protective measures.

Both the hazardous chemical list and safety data sheets must be kept up to date and made accessible to employees.

Information and Training — At the time of their initial job assignment and any time a new chemical hazard is introduced into their work area, the employer must:

- (1) Inform the workers of (a) the requirements of these rules, (b) any operations in their work area where hazardous chemicals may be present, and (c) the location of the chemical list and safety data sheets described above.
- (2) Provide the workers with effective training about hazardous chemicals in their work area, to include (a) methods for detecting the presence or release of hazardous chemicals, (b) the likely symptoms of over-exposure, and (c) the steps workers can take to protect themselves from the associated hazards.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

● WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT OF 1973 (ANHYDROUS AMMONIA)

TERMS: Under the Industrial Safety and Health Act, the state labor and industries director has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Washington's ammonia safety regulations are nearly identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural operations in the state.

ENFORCEMENT: *Division of Occupational Safety and Health, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5494; toll-free 800-423-7233).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law. Retaliation should be reported to the Department of Labor and Industries within 30 days after the violation occurs.

WAGES AND HOURS

● WASHINGTON MINIMUM WAGE ACT

TERMS:

Adult Workers — With some exceptions, agricultural workers 18 years of age and older are entitled to the state minimum wage, which is scheduled to increase over the next several years:

Effective January 1, 2017:	\$11.00 per hour
Effective January 1, 2018:	\$11.50 per hour
Effective January 1, 2019:	\$12.00 per hour
Effective January 1, 2020:	\$13.50 per hour
Effective January 1, 2021:	\$13.86 per hour
Effective January 1, 2022:	\$14.23 per hour

Exception — The state minimum wage *does not apply* to anyone employed as a hand harvest worker and who (1) is paid on a piecework basis in an operation customarily recognized as a piecework operation in the local region, (2) commutes to the farm daily from his or her permanent residence, and (3) was employed in agriculture less than 13 weeks during the preceding calendar year.

Minor Workers —

Workers Age 16 and 17 — Farmworkers 16 and 17 years of age are entitled to the same minimum wage that applies to covered adult workers.

Workers Under Age 16 — Farmworkers under 16 must generally receive no less than 85 percent of the adult minimum wage (or \$9.35 an hour in 2017).

Recordkeeping — Employers subject to any provision of the Act must keep a record of each worker's name, address, occupation, rate of pay, earnings for each pay period, and hours worked each day and each workweek.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).* This agency is authorized to investigate any complaint alleging non-payment of the state minimum wage, and to take action to collect unpaid wages on the worker's behalf.

SPECIAL NOTE: It is illegal for an employer to fire or to discriminate in any other way against a worker who has made a complaint to the employer or to the enforcement agency regarding wages or other rights under the Minimum Wage Act, or has testified in a related proceeding.

● WAGE PAYMENT AND COLLECTION LAW

TERMS: In general, when a worker quits a job or is fired or laid off, the worker's final wages must be paid at the end of the designated pay period.

It is unlawful for an employer to withhold any portion of a worker's wages unless the deduction (1) is required by state or federal law, (2) is specifically agreed upon by the worker and the employer, or (3) is required for medical, surgical or hospital care and clearly documented in the employer's records.

ENFORCEMENT: *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).*

West Virginia

CHILD LABOR

● CHILD LABOR LAW

TERMS: Under rules adopted by the state labor commissioner, the occupations declared by the U.S. Department of Labor to be hazardous to minors also apply to employment in West Virginia. Among other agriculturally-related activities prohibited for workers under 16 years of age are these:

- (1) Operation of a tractor of over 20 horsepower.
- (2) Operation or assisting in the operation of power-driven harvesting equipment.
- (3) Working from a ladder at a height of over 20 feet.
- (4) Driving a motor vehicle transporting passengers.
- (5) Working inside a fruit or grain storage facility or silo.
- (6) Handling or applying pesticides, anhydrous ammonia and other agricultural chemicals.

ENFORCEMENT: *Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890).*

School truancy officers and other school officials may assist the Division of Labor in enforcing the child labor provisions.

● COMPULSORY SCHOOL ATTENDANCE LAW

TERMS: In general, every child in West Virginia who has reached the age of 6 by September 1 in any school year, but who is not yet 17, is required to attend public school or receive equivalent instruction in an approved private or parochial school or at home.

Anyone who fails to assure the attendance of a school-age child in his or her custody is guilty of a criminal offense.

ENFORCEMENT: These provisions are enforced by county attendance directors employed for that purpose by the county boards of education.

CIVIL RIGHTS

● WEST VIRGINIA HUMAN RIGHTS ACT

TERMS: Farm operators and most other employers who have 12 or more workers in West Virginia for 20 or more weeks in the current or preceding calendar year are generally prohibited from:

- (1) Discriminating against a person with respect to hiring, compensation and other terms and conditions of employment, when the person is able and competent to perform the job and when discrimination is on grounds of race, religion, color, national origin, ancestry, sex, age (40 or over), blindness, or disability.
- (2) Requesting pre-employment information, using any form of job application, or circulating any employment notice, indicating a preference or discrimination with respect to race, religion, color, national origin, ancestry, sex or age.

Employment agencies and labor organizations are subject to similar prohibitions against discrimination.

Exceptions — Pension, retirement, insurance or welfare benefit plans are not considered discriminatory as long as they are not used as a way to get around the law's anti-discrimination purposes. Likewise, hiring or any other employment decision that recognizes a person's race, religion, color, national origin, ancestry, sex, age, blindness, or disability does not necessarily violate the law, provided such a decision is based on a bona fide occupational qualification.

ENFORCEMENT: *West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546).* A worker who has been affected by an act of employment discrimination may file a complaint with the Commission at any time within 365 days after the act occurred.

If the Commission fails to take action on a complaint within certain timeframes, or if a complaint is not resolved to the worker's satisfaction, the worker may request a right-to-sue letter from the Commission, permitting legal action against the employer in court, using a private attorney or public legal service provider. A lawsuit must be filed within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● PREGNANT WORKERS' FAIRNESS ACT

TERMS: Employers with 12 or more employees in West Virginia for 20 or more weeks this year or last are forbidden to discriminate against workers affected by pregnancy, childbirth or related medical conditions, and must make reasonable accommodations for such workers.

Furthermore, an employer with 12 or more employees may not require a job applicant or employee affected by pregnancy, childbirth or a related medical condition to accept an accommodation that the applicant or employee chooses not to accept, and may not require an employee to take leave if another reasonable accommodation can be provided.

ENFORCEMENT: *West Virginia Human Rights Commission, Charleston, West Virginia 25301 (304-558-2616; toll-free 888-676-5546).*

If the Commission fails to take action on a complaint within certain timeframes, or if a complaint is not resolved to the worker's satisfaction, the worker may request a right-to-sue letter from the Commission, permitting legal action against the employer in court, using a private attorney or public legal service provider. A lawsuit must be filed within 90 days of issuance of the letter, or within 2 years after the alleged act occurred, whichever is later.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WAGE PAYMENT AND COLLECTION LAW (COMPULSORY PURCHASES)

TERMS: It is against the law for an employer to require a worker to buy goods or supplies, from any source, as a condition for payment of the worker's wages. Furthermore, if a worker is forced into such a purchase at a price higher than the reasonable or current market value, the employer is legally obligated to pay the worker *double* the difference between the price paid and fair value.

ENFORCEMENT: This provision is enforced in criminal court by public prosecuting attorneys. However, using a private attorney or public legal services program, a worker who has been victimized by a violation of this provision may collect the wages and excess cost involved by suing the employer in civil court.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT COMPENSATION LAW

TERMS: Every farm operator or other agricultural employer who paid cash wages amounting to \$20,000 or more for agricultural labor during any 3-month period (calendar quarter) in the current or preceding year, or employed 10 or more farmworkers for any part of a day in 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment benefits. Benefits currently vary from \$24 to \$424 per week, depending on the worker's past earnings.

ENFORCEMENT: *Unemployment Compensation Division, WorkForce West Virginia, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-2624; toll-free 877-967-5498).* Unemployment compensation claims may be filed at any local WorkForce West Virginia office.

SPECIAL NOTE: A person who has worked less than 100 days in an industry recognized as seasonal (such as farming, food processing, or canning) during the year prior to filing a claim is not eligible for unemployment insurance benefits unless the worker earned at least \$100 from non-seasonal UI-covered employment during the same one-year period.

● WORKERS' COMPENSATION LAW

TERMS: Farm operators and other agricultural employers who have more than 5 full-time workers performing agricultural services are required to have workers' compensation insurance protecting their employees in the event of on-the-job injury or occupational disease.

Any full-time, part-time or seasonal farmworker who is employed by such an establishment is generally entitled to disability compensation and medical benefits for injury sustained on the job or disability due to an occupational disease.

ENFORCEMENT: *Offices of the Insurance Commissioner, West Virginia Department of Revenue, Charleston, West Virginia 25302 (304-558-3029).* An employee who is injured at work should promptly report the accident to the employer, who in turn must notify his or her workers' compensation insurance carrier. A worker who is injured on the job and does not receive the medical attention or disability benefits required under this law may file a complaint with the Commissioner's office, by calling 888-879-9842. The complaint form may be obtained online, at www.wvinsurance.gov.

SPECIAL NOTE: An employer may not fire, discipline, refuse to hire, or discriminate in any other manner against an individual because the individual has filed a workers' compensation claim or received workers' compensation benefits.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● PRIVATE EMPLOYMENT AGENCY LAW

TERMS: It is unlawful for anyone to charge a fee for providing job information to workers, or for assisting employers in finding workers, without first obtaining a letter of approval from the state labor department, which authorizes the state tax department to issue a business license. A state business license issued to an employment agent must be posted in plain sight at all times where the agent conducts business.

The licensing provision does not apply to employers who are making placements for individuals on their own payroll.

Among other prohibited acts, it is illegal for an employment agent to knowingly make any false statement to a job-seeker, or to withhold any pertinent information furnished by an employer, regarding the availability, nature, location, duration, pay rate, or other conditions of employment or work.

ENFORCEMENT: *Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890).* Aside from issuing letters of approval, the Division of Labor supervises the business activities of licensed agents.

The agency responsible for issuing business licenses to private employment agencies is the *West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-3333).*

PESTICIDES AND AGRICULTURAL CHEMICALS

● WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990

TERMS:

Licensing and Certification — With some exceptions, no one may engage in the business of applying pesticides to anyone else's property without being licensed by the state as a pesticide application business, and individuals who use or supervise the use of restricted pesticides for hire or in their own agricultural operations must be certified as commercial or private applicators. In most cases, a license or certification may not be issued unless the applicant passes an examination demonstrating knowledge and ability to conduct the pesticide activities safely and effectively.

Financial Responsibility — As a condition for receiving a pesticide application business license, the applicant must present proof of a surety bond or liability insurance policy, in an amount not less than \$300,000 for bodily injury or death and \$100,000 for property damage.

Prohibited Acts — Among others, the following practices are violations of the Act and grounds for denial, suspension or cancellation of an applicator's license and certification:

- (1) Operating faulty or unsafe equipment.
- (2) Operating in a faulty, careless or negligent manner.
- (3) Refusing or neglecting to keep required records or make required reports.
- (4) Applying pesticides without the required classification of license, permit or certification, or without supervision by a properly licensed or certified applicator.
- (5) Applying pesticides contrary to label instructions, or contrary to state or federal use restrictions.
- (6) Failing to comply with any provision of the Act or the associated regulations.

Damage Reports — A person claiming damages from a pesticide application may file a report of the incident with the state enforcement agency within 60 days after the alleged damages occurred.

ENFORCEMENT: *Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209).*

● WEST VIRGINIA PESTICIDE CONTROL ACT OF 1990 (AERIAL APPLICATION)

TERMS: In addition to demonstrating competence in agricultural plant pest control by passing a state-administered written examination, applicants for certification as aerial pesticide applicators must hold a valid agricultural applicator certificate from the Federal Aviation Administration.

Like most other classes of commercial applicators, individuals or businesses that apply pesticides using aircraft must have liability insurance or other financial security covering potential legal damages caused by their operations, in the minimum amount of \$300,000 for bodily injury or death, and \$100,000 for property damage.

ENFORCEMENT: *Pesticide Regulatory Unit, Regulatory and Environmental Affairs Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305 (304-558-2209).*

WAGES AND HOURS

● WAGE PAYMENT AND COLLECTION LAW

TERMS:

Pay Periods — Employers in the state (other than railroad companies) generally must pay their workers' wages at least twice a month, with no more than 19 days between paydays, unless a different schedule is provided for by special agreement.

Method of Payment — Wages may not be paid in any medium other than (1) in lawful U.S. money, (2) by check or similar draft, when arrangements have been made for cashing at full face value, (3) by direct deposit or electronic transfer of funds into a worker's payroll card account in a federally insured bank, or (4) by any method of depositing immediately available funds in a worker's account in a bank or credit union. Use of a payroll card must be agreed upon in writing by both the employer and the worker.

Final Pay — When an employer fires or lays off a worker, the employer must pay the worker's final wages in full no later than the next regular payday. If the employer fails to meet this timeframe, the worker is entitled to recover the unpaid amount, plus two times the unpaid amount as a penalty.

Notifications — At the time of hiring, every employer must provide to each worker hired a written notice of the rate of pay and the day, hour and place of payment. Any change in these conditions must be announced in advance and in writing. There must be a summary of the wage payment and collection law posted at the workplace and accessible to the workers at all times.

ENFORCEMENT: *Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890).*

Instead of filing a wage claim with the Division of Labor, a worker whose wages have not been paid in accordance with these provisions may recover unpaid wages by bringing legal action against the employer directly, utilizing a private attorney or a public legal services program.

● WEST VIRGINIA PERSONAL INCOME TAX ACT (*WITHHOLDING*)

TERMS: Employers in West Virginia are generally required to withhold state income tax from their workers' wages and send the withheld amounts to the state monthly or quarterly throughout the calendar year. By February 15 of the following year, or within 30 days after payment of final wages, employers must give each worker a written statement showing the total amount of wages paid to the worker and the total amount withheld as tax.

ENFORCEMENT: *Compliance Section, West Virginia State Tax Department, Charleston, West Virginia 25301 (304-558-8750).* A worker who believes that taxes are being improperly withheld from wages, or incorrectly reported or turned in to the state, should contact a representative of the Department.

Wisconsin

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Minimum Age — Children as young as 12 may be employed in agricultural activities.

School Attendance — With some exceptions, minors under 18 years of age are forbidden to work in any gainful employment during the hours they are required to attend school.

Prohibited Occupations — Among numerous other agriculturally related activities declared hazardous by the state labor department, children under 16 years of age are generally prohibited from:

- (1) Operating or assisting in the operation of mechanical harvesting equipment, mowers, balers, grinders and similar farm machinery.
- (2) Working from a ladder or scaffold at a height of more than 20 feet.
- (3) Handling or applying any toxic agricultural chemical whose container is branded with the word "Poison" or "Warning," or displays the skull-and-crossbones symbol.
- (4) Transporting, transferring or applying anhydrous ammonia.

Meal Periods — No one under 18 may be employed or allowed to work for more than 6 hours straight without a meal period of at least 30 minutes' duration.

ENFORCEMENT: *Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860).*

School attendance officers are also authorized to visit and inspect workplaces for the purpose of monitoring compliance with the child labor laws.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● **COMPULSORY SCHOOL ATTENDANCE LAWS**

TERMS: Any person having control of a child between the ages of 6 and 18 must see that the child regularly attends a public or private school for the full period and during all hours that the school is in session, until the child graduates from high school, until the end of the term in which the child reaches the age of 18, or unless the local school board excuses the child from attendance.

ENFORCEMENT: These provisions are enforced by school attendance officers designated by the local school boards.

CIVIL RIGHTS

● **WISCONSIN FAIR EMPLOYMENT ACT**

TERMS: With few exceptions, employers in Wisconsin are prohibited from engaging in any of the following acts of employment discrimination:

- (1) Refusing to hire a job applicant, firing an employee, or discriminating against an individual in promotion, compensation, or the terms, conditions or privileges of employment, because of the applicant, employee or individual's:
 - Age (40 or over)
 - Race
 - Creed
 - Color
 - Disability
 - Marital status
 - Sex
 - Sexual orientation
 - Pregnancy or childbirth
 - National origin
 - Ancestry
 - Arrest record
 - Conviction record
 - Military service
 - Use or non-use of lawful products off the employer's premises during non-working hours
 - Declining to attend a meeting or to participate in any communication about religious or political matters
- (2) Printing or circulating any statement, advertisement or notice, using any form of job application, or requesting information that suggests a preference, limitation or discrimination on any of the above-cited grounds.
- (3) Firing or otherwise discriminating against a person because he or she has opposed a discriminatory practice, or because he or she has made a complaint, testified or assisted in any proceeding under this law.

Comparable prohibitions apply to employment agencies and labor organizations.

ENFORCEMENT: *Civil Rights Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53708 (414-227-4396).* Anyone subjected to a discriminatory employment practice may file a complaint with the Civil Rights Bureau at any time within 300 days after the alleged practice occurred.

HEALTH AND SAFETY

● **MIGRANT LABOR LAW (FIELD SANITATION)**

TERMS: Under Wisconsin's migrant labor law, the state labor department has adopted rules requiring certain agricultural employers to provide toilet facilities, handwashing facilities and drinking water to their employees, without cost to the workers. The regulations apply to operations where 6 or more migrant workers are engaged in hand labor in the field.

Toilet Facilities — Wherever there are 6 or more migrant workers performing hand labor operations, the employer must provide toilet facilities, in the ratio of one toilet for every 20 workers. The facilities must be located within 1/4 mile of the workers, or at the point closest to the workers where entry by vehicles is possible. Each toilet unit must have a door that is lockable from the inside and include an adequate supply of toilet paper.

Handwashing Facilities — The employer must also provide at least one handwashing facility for every 20 workers, located within 1/4 mile of the workers or at the closest vehicular access.

Exception — If providing handwashing facilities creates a practical difficulty or hardship, the employer may apply to the state enforcement agency for approval to provide pre-packaged towelettes instead, as long as the substitution does not put the health or safety of the workers at risk.

Drinking Water — Clean, sanitary drinking water must be provided for the workers, at a readily accessible location. The water must be kept cool, in insulated containers that are clean and sanitary. The water must be dispensed in single-serving drinking cups; the use of common cups or dippers is prohibited.

In all cases, workers must be allowed reasonable opportunities during the workday to use the facilities provided.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* A migrant worker who has been denied drinking water or sanitation facilities in the field in violation of these requirements may file a complaint with the Department.

As an alternative to filing a complaint with the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

HOUSING

● MIGRANT LABOR LAW (*MIGRANT LABOR CAMPS*)

TERMS: Migrant labor camps in Wisconsin — briefly defined as any site and structures maintained as living quarters for one or more workers who leave their principal place of residence outside the state and come to Wisconsin for not more than 10 months a year to engage in seasonal agricultural employment — are subject to certification and sanitation requirements prescribed in the state's migrant labor law.

Certification — No one may operate a migrant labor camp without an annual certificate from the state. By April 1 each year, or no later than 30 days before opening a new camp, the owner or operator of the facility must apply for certification. The state agency must inspect each camp requesting certification, and if the camp complies with minimum standards, the agency will issue a certificate authorizing operation of the facility through March 31 of the following year.

Minimum Standards — The state agency has adopted detailed specifications for certification of migrant labor housing. Among other factors considered in determining if a housing facility meets the standards are these:

- The condition of the housing site
- The size and condition of the housing structures
- The water supply
- The waste disposal system
- The condition of exterior door and window screens.
- Heating equipment
- Electric service and lighting
- Toilet facilities
- Bathing facilities
- Laundry facilities
- Cooking and eating facilities
- Sleeping accommodations
- Trash containers and disposal procedures
- Fire safety devices and means of emergency escape
- Restrictions on storage of hazardous materials

Operator Responsibilities — At least once a week, the camp operator is required to inspect the camp to see that all areas are kept clean and orderly, and that broken or damaged property is promptly repaired. The operator must designate someone to maintain the grounds and common-use facilities, and if the camp houses 100 persons or more, the operator must provide a full-time staff member for that purpose.

Notice of Pesticide Applications — At least 24 hours in advance, the camp operator is required to provide camp occupants with notice of any pesticide application on any land next to the camp which is owned or controlled by the operator. Likewise, whenever a camp operator is alerted to an aerial pesticide application on nearby land belonging to someone else, the operator must advise camp occupants as soon as reasonably possible. In either case, notice must be posted on a camp bulletin board or other central gathering place, and must be written in English and in the occupants' language, if other than English.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* This agency is responsible for inspecting and certifying migrant labor camps in Wisconsin, and for enforcing the continued compliance of licensed housing with the state minimum standards.

A migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

● MIGRANT LABOR LAW (ACCESS, ENTRY, AND TENANCY)

TERMS: Migrant farmworkers have the right to decide who may visit them wherever they are living, and no one may prohibit or interfere with entry to or exit from the residence of any such worker, either by the use of any sort of fence, by posting of any sign or notice, or by the use or threat of force or violence. Any fence built around a migrant labor camp must have one or more gateways, and putting up "No Trespassing" signs on land next to a camp is not permitted unless entry to the camp is clearly marked.

After a migrant worker's employment has ended, an employer may not require the worker to move out of a migrant labor camp operated by the employer until the worker has received payment of final wages in full.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* A migrant worker who has been denied visitation by guests at his or her residence, or any person who has been invited to a worker's residence and has been refused entry, may file a complaint with the Department, which is authorized to investigate the complaint and take action to assure compliance.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

INSURANCE AND COMPENSATION

● UNEMPLOYMENT INSURANCE LAW

TERMS: Every farm operator or other agricultural employer who paid cash farm wages amounting to \$20,000 or more during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more workers in agricultural labor for some part of a day in at least 20 different weeks this year or last, is required to pay unemployment insurance taxes to the state. The state agency credits each worker for the amount of wages reported by the employer.

An unemployed farmworker who has accumulated the necessary wage credits from working for one or more such employers, and who meets the program's other qualifications, may be eligible for weekly unemployment insurance benefits. Unemployment benefits currently range from \$53 to \$370 per week.

ENFORCEMENT: *Unemployment Insurance Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (414-438-7705).* Claims for unemployment compensation may be filed online, at my.unemployment.wisconsin.gov.

● WORKER'S COMPENSATION ACT

TERMS: Every farmer or other agricultural operation that employs 6 or more workers at one or more locations, working on the same day for 20 or more days during the year, is required to have workers' compensation insurance covering the operation's employees. The employer must obtain insurance within 10 days after reaching the 20-day threshold.

A farmworker who is injured while performing services for such an employer is entitled to (1) coverage of all reasonable and necessary medical costs, (2) cash payments for temporary loss of wages while the worker is recovering from the injury, (3) cash payments for permanent disability if the worker does not fully recover from the injury, (4) vocational rehabilitation, and (5) death benefits and payment of burial expenses if death occurs as a result of the injury.

ENFORCEMENT: *Worker's Compensation Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-1340).* An injured worker should notify the employer within 30 days of any injury, or, in the case of an occupational disease, within 30 days after the worker becomes aware of the disability and its relation to the employment.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● MIGRANT LABOR LAW (*MIGRANT LABOR CONTRACTORS*)

TERMS: Wisconsin's migrant labor law regulates the activities of migrant labor contractors, briefly defined as anyone (other than an employer acting on his or her own behalf) who recruits, solicits, hires or furnishes migrant workers for employment in Wisconsin. A "migrant worker" is anyone who temporarily leaves a principal residence in another state and comes to Wisconsin for not more than 10 months in a year to accept seasonal agricultural employment.

Registration — No one may operate as a migrant labor contractor without first obtaining a registration certificate from the state. Registered labor contractors must carry their certificate at all times while performing contracting activities, and must show the certificate to everyone with whom they deal in that role. Likewise, agents employed by registered contractors to assist them in contracting work must carry identification indicating their status as agents of a registered contractor.

Duties — Among other responsibilities, every migrant labor contractor and every contractor's agent is required (1) to file an official change of address within 10 days after each such change, (2) to promptly pay or deliver to the appropriate recipient anything of value entrusted to the contractor by someone else, (3) to comply with all contracts or agreements entered into, and (4) to keep and preserve prescribed records.

Prohibited Activities — Migrant labor contractors and their agents are forbidden from (1) knowingly giving a worker any false or misleading information, or failing to fully disclose any information, concerning the terms, conditions or existence of employment, (2) receiving, paying or withholding a worker's wages, except to distribute a check payable to the worker, (3) charging a worker for goods or services when the amount charged is more than the actual cost of providing the goods or services, or (4) violating the migrant labor law's recruitment and contract provisions (see next entry).

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* This agency is responsible for issuing migrant contractor registration certificates, and for assuring registrants' compliance with the migrant labor law and the associated rules and regulations.

A migrant worker affected by a violation of the migrant labor law by a migrant labor contractor has a right to file suit against the contractor in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: A labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the contractor involved, using a private attorney or public legal service provider.

● MIGRANT LABOR LAW (*MIGRANT WORK AGREEMENTS*)

TERMS: Wisconsin's migrant labor law requires agricultural employers, labor contractors, and others who hire or recruit migrant farmworkers for employment in the state, to provide the workers with certain pre-employment information and with a written work agreement at the time of hiring.

Pre-Employment Disclosure — At the time of recruitment of any out-of-state migrant worker for temporary seasonal agricultural employment in Wisconsin, the employer or contractor involved must provide the worker with a written disclosure of the terms and conditions of employment, identical in content to the required work agreement described below. The disclosure must be in English, and in the worker's usual language if other than English.

Written Work Agreement — At the time of hiring, the employer or contractor must provide each migrant worker recruited or hired with a written work agreement, signed by the employer and by the worker (or the head of the family, if a family is employed). The work agreement, which must be in English and in the worker's usual language if other than English, must include the following:

Employment Conditions — The work agreement must specify the place of employment, the kind of work to be done, the wage rates to be paid, the length of the pay period, the approximate hours of employment and any overtime to be paid, the approximate starting and ending dates of the job, the housing to be provided and its cost to the worker, the cost of any employer-provided meals, the arrangements for transportation, the names of all family members to be employed (if any), and the charges or pay deductions to be made other than those required by law.

Guaranteed Hours — The work agreement must contain a guarantee of (1) at least 45 hours of work in each 2-week period for workers employed in agricultural field work only, or (2) at least 20 hours of work in each one-week period, or 64 hours in a 2-week period, if the worker is employed in both field and processing operations. The guarantee covers the entire period from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

Exceptions to Guarantee — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available. Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to a weather disaster or similar circumstances beyond the employer's control. Within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* A migrant worker who has not received a recruiting disclosure statement, a written work agreement, or pay in accordance with guarantees shown in the work agreement, should contact the Department.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

● GENERAL LABOR LAWS (FRAUDULENT ADVERTISING FOR LABOR)

TERMS: It is unlawful to recruit or persuade workers to change from one place of employment to another in Wisconsin, or to bring workers of any sort into the state, by means of false advertising or false claims concerning the nature of the work to be done, the wages to be paid, or the conditions of the job.

Failing to tell the workers that a strike or lockout exists at the place of proposed employment, when such a labor dispute actually exists there, is also illegal.

ENFORCEMENT: *Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860).*

As an alternative to filing a complaint with the Department, a worker who has been misled into relocating for purposes of employment has the right to sue for damages directly, using a private attorney or a public legal services program.

LABOR RELATIONS AND UNION REPRESENTATION

● EMPLOYMENT PEACE ACT

TERMS:

Rights of Employees — Farmworkers and most other employees in Wisconsin have the right to organize, to form, join and assist labor organizations, to negotiate the terms of their employment through representatives of their own choosing, and to

involve themselves in other lawful activities for their own benefit. Workers are also entitled not to become involved in any or all such activities. Employees cannot be required to make any payments to a labor organization, nor can employee payments to a labor organization be required as a condition of obtaining or continuing employment.

Representatives and Elections — Whenever a worker, a group of workers, or an employer, through a formal petition to the state employment relations commission, raises a question concerning the will of the workers to be represented for purposes of bargaining with their employer, the employment relations commission is required to respond by arranging a secret-ballot election to resolve the issue. The names of all persons or organizations submitted by any of the workers participating in the election must appear on the ballot, and workers must also be given the option of voting against representation by anyone named on the ballot. Representatives chosen by a majority of the workers in a particular workplace or bargaining unit must represent all the workers in the unit for bargaining purposes, though any worker or minority group of workers still has the right to present complaints at any time to their employer in person or through representatives of their own choosing.

Unfair Labor Practices by Employers — Among other prohibited acts, it is unlawful for an employer to interfere with workers in the exercise of the rights outlined above, to dominate or interfere with the formation or administration of a labor organization, to encourage or discourage membership in a labor organization, to refuse to negotiate with the representative of a majority of the workers in a bargaining unit, or to violate the terms of a union contract.

Agricultural Strikes — Any time a strike by agricultural workers could result in the loss of or serious damage to farm products produced in Wisconsin, the workers must give the employment relations commission at least 10 days' notice of their intention to strike. The commission must immediately notify the employer and take immediate steps to resolve the dispute.

ENFORCEMENT: *Wisconsin Employment Relations Commission, Madison, Wisconsin 53704 (608-243-2424).* A worker who believes that his or her rights under the Employment Peace Act have been restricted or violated may file a complaint with the Commission.

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● GENERAL LABOR LAWS (*RECRUITMENT OF STRIKEBREAKERS*)

TERMS: It is illegal for a farm operator or other employer to make arrangements with another person (such as a labor contractor, for example) to employ strikebreakers to replace workers who are on strike against the employer.

Likewise, no one who is not directly involved in a strike may recruit a strikebreaker for employment when the purpose of that activity is to have the strikebreaker replace an employee in an industry or establishment where a strike is in progress.

It is also illegal for anyone to transport or arrange to transport a strikebreaker to Wisconsin, for employment in an establishment affected by a strike.

ENFORCEMENT: *Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-6860).* A worker adversely affected by an apparent violation of these provisions may submit a complaint to the Equal Rights Division.

PESTICIDES AND AGRICULTURAL CHEMICALS

● PESTICIDE LAWS

TERMS:

Certification and Licensing — In general, no one may apply any pesticide for hire without being licensed and certified as a commercial applicator by the state. Likewise, farm operators may not apply or supervise the application of restricted pesticides in connection with agricultural production on their farms without being certified as private applicators. Certification requires, in part, that the applicant demonstrate competence to apply pesticides safely and effectively. For commercial applicators, competence is determined on the basis of written examination, while private agricultural pesticide users normally may be certified either through training or by examination.

Pesticide Storage — Pesticides must be stored according to label instructions and in such a way that labels are not damaged or destroyed. Storage areas generally must be secure against entry by children or the general public.

Pesticide Disposal — No one may dispose of pesticides or pesticide containers in a manner contrary to the directions on the product's label, or in a way that could create a hazard to humans, property, fish or wildlife. Except in connection with professional recycling, it is illegal to re-use pesticide containers for any purpose.

Pesticide Drift — No one may use a pesticide in a way that results in pesticide over-spray or drift.

Pre-Harvest Intervals — It is illegal for a farm operator to harvest a crop from the site of a pesticide application during the pre-harvest interval specified for that crop on the pesticide label.

Application Equipment — Use of pesticide application equipment that is clogged, unclean or in disrepair, or that cannot be properly calibrated, is prohibited.

Warning Signs — In a situation where (1) an agricultural pesticide label requires both posted and oral warnings before the product is applied, and (2) the application site is within 300 feet of a migrant labor camp, residence, school, playground or similar facility where people are likely to be present during the restricted-entry interval specified on the pesticide label, either the pesticide applicator or the owner or operator of the property targeted by the application must post warning signs that meet the requirements prescribed in the regulations.

Prohibited Acts — Among many other violations of the state pesticide laws, it is unlawful for anyone to:

- (1) Detach, alter, deface or destroy any part of a pesticide label, or alter the contents of a pesticide container.
- (2) Use any restricted pesticide contrary to label directions or other federal or state restrictions.
- (3) Use or supervise the use of pesticides without required certification, licensing or supervision.
- (4) Fail to maintain required records or make required reports.

ENFORCEMENT: *Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545).*

● PESTICIDE LAWS (AERIAL APPLICATION)

TERMS:

Certification — No one may apply a pesticide from the air unless certified as an aerial applicator. In addition to the requirements for general certification, an aerial operator must (1) provide proof that he or she is licensed and fully trained to operate and apply pesticides with each type of aircraft used for that purpose, and (2) demonstrate competency and practical knowledge of aerial pest control, the health and environmental hazards related to aerial applications, and the prevention of pesticide over-spray and drift.

Aircraft Requirements and Operations — Aircraft used to apply pesticides must meet state and federal standards, and must be operated in accordance with state and federal operating procedures.

Prior Notification of Aerial Applications — At least 24 hours before the application of any pesticide by aircraft, the owner of the land to be treated is required to notify the operator of any migrant labor camp immediately adjacent to the targeted areas, and to notify the residents of any closely adjoining property who give written request for prior notice. The notification may be oral or written, but must include the intended date and time of the application, the identity of the pesticide product to be applied, and the location of the application site.

ENFORCEMENT: *Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545).*

● PESTICIDE LAWS (WORKER PROTECTION)

TERMS:

Compliance with Federal Standards — Agricultural employers in Wisconsin, as well as individuals and businesses that mix, load or apply agricultural pesticides in the state, are required to comply with the worker protection standards established by the U.S. Environmental Protection Agency (*see entry, U.S. — Pesticides and Agricultural Chemicals*).

Warning Signs — Agricultural employers are required to post prescribed warning signs at pesticide application sites, as required under the EPA standards mentioned above. They must go up no earlier than 24 hours before the pesticide application is scheduled to begin, remain posted throughout the restricted-entry period specified on the product label, and be removed or covered not more than 3 days after the re-entry period ends.

Early Entry to Treated Fields — An agricultural employer may allow workers to enter a treated field before the restricted-entry period has ended, but only if (1) early entry is necessary because of an unexpected emergency, (2) early entry does not violate the EPA worker protection standards, (3) the workers entering the treated area have been trained in accordance with the EPA standards, and (4) the employer files a written report of the emergency situation with the state enforcement agency. The report must include the date and location of the early entry, a description of the emergency that required early entry, the name and EPA registration number of the pesticide applied to the area, and the number of workers involved in the early entry.

Worker Training — An agricultural employer is prohibited from requiring or allowing an agricultural worker to enter a field subject to a restricted-entry interval during the previous 30 days, unless the worker has received the worker safety training required under the EPA standards. The training must have been presented by a person certified or qualified by the state agency. Employers of agricultural workers must keep prescribed records of pesticide training for each worker or handler employed.

ENFORCEMENT: *Bureau of Agrichemical Management, Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection, Madison, Wisconsin 53708 (608-224-4545).*

TRANSPORTATION

● MIGRANT LABOR LAW (*TRANSPORTATION OF MIGRANT WORKERS*)

TERMS: Wisconsin's migrant labor law includes protections related to the transportation of migrant workers by farm labor contractors and agricultural employers.

Transportation Safety — Any transportation provided by an employer to a migrant worker from one place of residence to another must be safe and adequate. Likewise, for each vehicle used to transport individuals and property in connection with labor contracting activities, a migrant labor contractor is required to provide a vehicle inspection report to the state.

Insurance — Every contractor or contractor's agent who owns or operates any vehicle for the transportation of persons or property in connection with contracting activities must maintain liability insurance protecting the contractor or agent against damages that may occur due to ownership or operation of the vehicle. The liability limits must be no less than \$100,000 for each seat in the vehicle, up to a maximum coverage of \$5,000,000.

If the contractor furnishes worker transportation only as the agent of an employer, the employer is responsible for obtaining the required insurance.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* The Department is authorized to investigate reported or suspected violations of the migrant labor transportation provisions.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

WAGES AND HOURS

● MINIMUM WAGE LAW

TERMS:

Minimum Wage — Agricultural workers are generally entitled to the state minimum wage, currently \$7.25 an hour.

Allowance for Meals and Housing — Within the limits indicated below, agricultural employers are allowed to deduct the fair value of any meals and housing provided to their workers, but only to the extent that (1) the meals and housing are accepted and actually received by the workers, (2) the meals are adequate and well-balanced, and (3) the housing is decent and sanitary.

Meals — Farm employers may not deduct more than \$4.15 per meal, or \$87 per week for furnishing meals.

Housing — The value of any lodging provided to farmworkers may not exceed \$8.30 per day or \$58 per week.

Exception — Room and board may not be deducted from the wages of a seasonal non-resident agricultural employee if the deduction would result in receipt of less than the state minimum wage.

Recordkeeping — Like employers in other industries, farm employers are required to keep payroll and related records on each worker. The record must include (1) the worker's name and address, (2) date of birth, (3) the start- and end-date of employment, (4) the start- and end-time of each workday and each meal period, (5) the total number of hours worked per day and per week, (6) the rate of pay and wages paid each payroll period, (7) the amount and purpose of each deduction from wages, and (8) the amount of production, if paid on other than a time basis.

ENFORCEMENT: *Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860).*

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any manner against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● MIGRANT LABOR LAW (HOURS OF LABOR AND OVERTIME)

TERMS: Migrant workers in Wisconsin are protected by hour and overtime standards in the state's migrant labor law.

Workers Employed Solely in Agricultural Labor —

Maximum Hours — Except in an emergency, no migrant worker who performs only agricultural labor for a particular employer may be forced by the employer to work, or be penalized for failing to work, for more than 6 days or 60 hours in any one week, or more than 12 hours in any one day.

Meal Periods — It is illegal to employ a migrant worker for more than 6 hours straight without a meal period of at least 30 minutes, unless the work can be completed within one additional hour. Employers do not have to pay workers for meal periods.

Other Migrant Agricultural Workers —

Overtime Pay on Sunday — A migrant worker who is not employed solely in agricultural operations is entitled to receive no less than $1\frac{1}{2}$ times the worker's regular rate of pay for any hours worked on Sunday, unless the worker is allowed another day of rest that week.

Rest Periods — Each migrant worker not employed exclusively in agricultural labor must be provided a paid rest period of at least 10 minutes within each 5 hours of continuous employment.

Meal Periods — No migrant worker may be required to work for more than 6 hours straight without a paid or unpaid meal period of at least 30 minutes, unless the work can be completed within one additional hour.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* Violations of the migrant labor law's hour and overtime standards may be reported to the Department.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

● WAGE PAYMENT, CLAIMS, AND COLLECTION LAW

TERMS: Farmworkers must receive their wages at regular intervals, and no less often than once every 3 months. A worker who is absent at the regular time of payment, or for any other reason is not paid at that time, must be paid within 6 days after requesting his or her earnings.

Agricultural and non-agricultural workers who do not have a written employment contract for a definite period must receive final wages in full no later than the date on which they would have received their next wages under the employer's established payroll schedule.

ENFORCEMENT: *Labor Standards Bureau, Equal Rights Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53703 (608-266-6860).* The Department may take action on a wage claim only if it is filed no later than 2 years after the date the unpaid wages were due.

As an alternative to filing a claim with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

● **MIGRANT LABOR LAW (WAGE PAYMENT)**

TERMS: Wage payments to out-of-state migrant workers temporarily employed in seasonal agricultural operations in Wisconsin are subject to provisions in the state's migrant labor law.

Frequency of Payment — Every employer must pay all wages earned by an out-of-state migrant farmworker directly to the worker, on regular paydays designated in advance by the employer, but no less often than twice a month.

Medium of Pay — Wages must be paid in U.S. currency or by check.

Wages at Termination — At the end of the period of employment for which a migrant worker was hired, the employer is generally required to pay all remaining wages within 3 days after the worker's last day.

Wage Statements — At the time of payment, employers must give each migrant worker a written statement showing the amount of the worker's gross and net wages, and each amount deducted or withheld for whatever purpose.

Deductions — It is illegal for an employer or migrant labor contractor to deduct or withhold from a migrant worker's wages any amount for the payment of past or expected debts, unless the worker has previously authorized the deduction or withholding in writing. This does not prevent an employer from making any wage deduction required by law or under a court order.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* Complaints regarding wage payments contrary to these provisions, or claims for unpaid wages, may be filed with the Department for investigation.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

● **MIGRANT LABOR LAW (GUARANTEED HOURS)**

TERMS:

Guaranteed Hours — The required written work agreement between an employer or contractor and an out-of-state migrant worker must contain a guarantee of (1) at least 20 hours of work in each one-week period or 45 hours of work in each 2-week period for field work, or (2) at least 64 hours in a 2-week period if the worker is employed in both field and processing operations.

The guarantee covers the entire time from the date the worker is notified to report to work (or the date the worker actually reports for work, if later) to the date of termination of employment.

Exceptions — The hours guarantee generally applies only to workers 18 years of age and older. If a worker is not available for work on a particular day during the guarantee period, the employer may reduce the minimum guarantee by an amount equal to the wages the worker would have earned had the worker been available.

Furthermore, the employer is not obligated to pay the minimum guarantee if the worker reports for work as notified but is never employed due to a weather disaster or similar circumstances beyond the employer's control. Within 24 hours after reporting for work in any such case, the worker is entitled to receive pay at the agreed-upon rate for the elapsed time between the worker's departure from the point of origin and return to the point of origin, but in no event less than 3 nor more than 6 days' pay at 8 hours per day.

ENFORCEMENT: *Migrant Law Enforcement Section, Employment and Training Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-0002).* A migrant worker who has not received pay in accordance with guarantees shown in the work agreement should contact the Department.

Without regard to action by the Department, a migrant worker affected by a violation of the migrant labor law by an employer or migrant labor contractor has a right to file suit against the violator in civil court, using a private attorney or public legal service provider.

SPECIAL NOTE: An employer or labor contractor may not fire, discipline or discriminate in any way against a migrant worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions. A worker who has been subjected to unlawful retaliation may file suit against the employer or contractor involved, using a private attorney or public legal service provider.

● INCOME TAX LAW (*WITHHOLDING*)

TERMS: Unlike earnings in most other industries, wages paid for agricultural services are not subject to withholding of state income tax.

ENFORCEMENT: *Compliance Bureau, Division of Income, Sales and Excise Tax, Wisconsin Department of Revenue, Madison, Wisconsin 53713 (608-266-2772).*

SPECIAL NOTE: Even though farm employers are not required to deduct state income taxes from their employees' wages, farmworkers may have to file a tax return with the state and may, in fact, owe taxes at the end of the year, depending on total income and other circumstances.

Wyoming

CHILD LABOR

● CHILD LABOR LAWS

TERMS:

Minimum Age — Under the state child labor laws, children of any age may be employed in agriculture.

Employment During School Hours — No one under the age of 16 who is enrolled in a public or private school in Wyoming may be employed or allowed to work in agriculture or any other industry during the time that the child's school is in session.

Hazardous Occupations — The child labor laws prohibit the employment of anyone under 16 years of age in any work that requires contact with or exposure to dangerous chemicals, which may rule out certain agricultural field operations on crops treated with pesticides.

ENFORCEMENT: *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261).*

● COMPULSORY ATTENDANCE LAW

TERMS: With few exceptions, every parent or other person having control of any child who is a resident of Wyoming and at least 7 years of age on September 15 of any school year, but who has not reached the age of 16 or completed the 10th grade, is required to send the child to a public or private school that year for the entire time that the local public schools are in session.

ENFORCEMENT: These provisions are enforced by attendance officers appointed by the local school boards.

CIVIL RIGHTS

● WYOMING FAIR EMPLOYMENT PRACTICES ACT OF 1965

TERMS: In general, it is illegal for a farm operator or any other employer with 2 or more employees to refuse to hire a job applicant, to fire an employee, or to discriminate against an applicant or employee regarding the terms or conditions of employment, because of age (40 and above), sex, race, creed, color, national origin, ancestry, disability, or pregnancy, when the applicant or employee is otherwise qualified to perform the job.

ENFORCEMENT: *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261).* A worker affected by unlawful employment discrimination may file a complaint with the Department, at any time within 6 months after the violation occurred.

SPECIAL NOTE: It is unlawful for an employer to reduce the wage rate of any employee as a means of eliminating illegal wage discrimination under these provisions.

● **EQUAL PAY LAW**

TERMS: A farm operator or any other employer in Wyoming is prohibited from paying wages to workers at a rate less than the rate the employer pays to workers of the opposite sex for equal work, on jobs requiring equal skill, effort and responsibility and that are performed under similar working conditions.

Wage differences under a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or some other system based on a factor other than gender, are generally not considered discriminatory.

ENFORCEMENT: *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261).*

As an alternative to filing a wage claim or complaint with the Department, the law gives workers the right to sue the employer in civil court to enforce these provisions, using a private attorney or a public legal services program.

SPECIAL NOTE: An employer may not fire, discipline or discriminate against a worker because the worker has filed a complaint or made use of any other right granted by this law.

HEALTH AND SAFETY

● **WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT**

TERMS: In general, farm operators and most other employers in Wyoming are required to protect their workers against on-the-job hazards that could cause death or serious injury, and to comply with all state safety and health regulations that apply to their operations.

More specifically, the state OSHA Commission has adopted rules requiring roll-over protections on tractors and safety measures on other agricultural equipment. These regulations are virtually identical to those established by the U.S. Occupational Safety and Health Administration (see entry, U.S. — Health and Safety) and apply to all farm operations in Wyoming.

ENFORCEMENT: *Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

INSURANCE AND COMPENSATION

● **WYOMING EMPLOYMENT SECURITY LAW**

TERMS: Farm operators and other agricultural employers who paid cash wages of \$20,000 or more during any 3-month period (calendar quarter) in the current or previous year, or employed 10 or more farmworkers for any part of a day in 20 or more weeks this year or last, are required to pay unemployment insurance taxes to the state, which credits each worker for the amount of wages reported by the employer.

Unemployed agricultural workers may qualify to receive cash unemployment benefits if they have accumulated the necessary wage credits from working for one or more such employers and meet the program's other eligibility rules.

ENFORCEMENT: *Unemployment Insurance Division, Wyoming Department of Workforce Services, Casper, Wyoming 82601 (307-235-3264).* Claims for unemployment compensation may be filed by calling 307-473-3789, or online at doe.state.wy.us/InetClaims.

LABOR CONTRACTORS AND WORKER RECRUITMENT

● EMPLOYMENT AGENCY LAW

TERMS:

Licensing — It is illegal for a business or individual, for a fee, to supply an employer with workers or to refer workers to employment, without first obtaining an employment agency license from the state. The license must be posted in plain sight at the location where the agency or agent conducts business.

Bonding — An applicant for a license is required to be bonded in the amount of \$500, to assure compliance with the employment agency law.

Prohibited Acts — Among other violations described in the law, a licensed employment agency may not give any false or misleading information, or make any false promise, relating to work or employment.

ENFORCEMENT: *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261).* A worker who has received false or misleading information from an employment agent or labor contractor, or who has evidence of a violation of the employment agency law, may file a complaint with the Department.

PESTICIDES AND AGRICULTURAL CHEMICALS

● WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973

TERMS:

Certification of Applicators — In general, farm operators and their employees are prohibited from applying restricted pesticides to agricultural crops unless they are certified as private applicators. Among other conditions, certification requires each applicant to demonstrate competence in the use and handling of restricted pesticides, by passing a training course, completing an instruction workbook, or passing a written or oral examination.

Similarly, anyone who intends to engage in the business of applying pesticides on the property of another for hire must be certified as a commercial applicator, which requires passing an examination and meeting other qualifications.

Notifications — Before applying any restricted pesticide, certified commercial applicators must inform the customer of the name of the product to be used, the potential hazards of the product, any restricted entry period that applies to the product, and any waiting periods prior to harvest.

Prohibited Acts — It is unlawful for anyone to engage in any of the following practices, among others:

- (1) Detaching, altering, defacing or destroying any part of a pesticide product label prior to disposal of the container.
- (2) Using any registered pesticide in a manner inconsistent with its labeling.
- (3) Failing or refusing to keep required records.
- (4) Using any restricted pesticide unless properly certified to do so, or unless under the direct supervision of a certified applicator.
- (5) Using restricted pesticides in a manner contrary to the applicator's license or certification classification.

ENFORCEMENT: *Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975).*

● WYOMING ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1973 (AERIAL APPLICATION)

TERMS:

Certification of Aerial Applicators — In addition to the general knowledge and competencies required of all categories of pesticide applicators, applicants for aerial certification must demonstrate practical knowledge of aerial equipment calibration and maintenance, as well as methods of avoiding problems associated with pesticide application from the air, such as drift and non-target injury.

Registration of Aircraft — Any person or business applying pesticides by air must register each aircraft used for that purpose with the state each year. The registrant must provide the state agency with (1) the name of the aircraft's manufacturer, its model and type, (2) the identification number assigned to the aircraft, (3) the name of the aircraft's owner, and (4) the name of the user of the aircraft, if different from the owner. There is a \$25 annual registration fee.

ENFORCEMENT: *Pesticide Section, Technical Services Division, Wyoming Department of Agriculture, Cheyenne, Wyoming 82002 (307-777-7321; toll-free 800-877-9975).*

● WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (HAZARD COMMUNICATION)

TERMS: Under the authority of this law, the state OSHA Commission has adopted regulations requiring employers to provide information to their employees about the hazardous chemicals to which they are exposed on the job. These regulations are virtually identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural employers in Wyoming.

ENFORCEMENT: *Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

● WYOMING OCCUPATIONAL HEALTH AND SAFETY ACT (ANHYDROUS AMMONIA)

TERMS: The state OSHA Commission has adopted standards for the storage and handling of anhydrous ammonia, which is commonly used as an agricultural fertilizer. Wyoming's ammonia safety regulations are virtually identical to those established by the U.S. Occupational Safety and Health Administration (*see entry, U.S. — Pesticides and Agricultural Chemicals*) and apply to all agricultural operations in the state.

ENFORCEMENT: *Wyoming OSHA, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7786).*

SPECIAL NOTE: An employer may not fire, discipline or discriminate in any way against a worker because the worker has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

WAGES AND HOURS

● WAGE PAYMENT AND COLLECTION LAWS

TERMS: Whenever a farmworker or other employee quits the job or is laid off or fired by the employer, the worker's final wages must be paid no later than the next regularly scheduled payday. Wages must be paid in lawful U.S. money or by check.

ENFORCEMENT: *Labor Standards Office, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002 (307-777-7261).* A worker who has not received final pay in accordance with these provisions may file a claim with the Department, provided the sum involved does not exceed \$500 or 2 months' wages, whichever is greater. If, after investigation, the claim is found to be valid, the agency has authority to take legal action on the worker's behalf to collect the unpaid wages.

Related Programs and Enforcement Assistance

U.S. DEPARTMENT OF LABOR FARMWORKER PROGRAMS

Career Services. Through 56 public and private-nonprofit grantees, the U.S. Department of Labor provides career services to migrant and seasonal farmworkers in all states (except Alaska) and in the Commonwealth of Puerto Rico. Most of the available funds for the National Farmworker Jobs Program, as it's commonly known, are invested in helping farmworkers obtain and retain permanent, year-round jobs, both within and outside agriculture. The centerpiece of the program is job training and supportive services that successfully redirect participants into new careers or stabilize their current agricultural employment.

At one stage or another of the service delivery process, NFJP program operators routinely encounter farmworkers faced with many of the workplace challenges addressed by the laws cataloged on this website — unpaid wages, unsafe or unsanitary working conditions, denial of employee benefits, and others. Helping connect workers with enforcement agencies and legal resources to resolve these kinds of complaints is a key element of the program in many areas, within the scope of “related assistance” allowable under NFJP regulations.

NFJP Career Services Program Operators

ALABAMA	Telamon Corporation 51 Wisteria Place Millbrook, Alabama 36054 334-239-2600
ARIZONA	Portable Practical Educational Preparation, Inc. 806 East 46th Street Tucson, Arizona 85713 520-770-2500
ARKANSAS	Arkansas Human Development Corporation 300 South Spring Street, Suite 700 Little Rock, Arkansas 72201 501-374-1103
CALIFORNIA	California Human Development 3835 N. Freeway Drive, Suite 140 Sacramento, California 95834 916-514-4313 Center for Employment Training 701 Vine Street San Jose, California 95110 408-287-7924 Central Valley Opportunity Center 6838 West Bridget Court / P.O. Box 1389 Winton, California 95388 209-357-0062 La Cooperativa Campesina de California 7801 Folsom Boulevard, Suite 365 Sacramento, California 95826 916-388-2220 Employers' Training Resource 1600 E. Belle Terrace Bakersfield, California 93307 661-336-6893

CALIFORNIA <i>(continued)</i>	Proteus, Inc. 1830 North Dinuba Boulevard Visalia, California 93291 559-733-5423
COLORADO	Rocky Mountain SER 3555 Pecos Street Denver, Colorado 80211 719-980-5464
CONNECTICUT	New England Farmworkers Council 56 Arbor Street, Suite 307 Hartford, Connecticut 06114 860-293-2552
DELAWARE	Telamon Corporation 26351 Patriots Way, Building W4 Georgetown, Delaware 19947 410-546-4604
FLORIDA	Florida Farmworker Jobs and Education Program Florida Department of Education 1313 N. Tampa Street, Suite 103 Tampa, Florida 33602 813-224-1920
GEORGIA	Telamon Corporation 102 Corporate Square Dublin, Georgia 31021 478-304-1174
HAWAII	Maui Economic Opportunity, Inc. 99 Mahalani Street Wailuku, Hawaii 96793 808-249-2990
IDAHO	Idaho Migrant Council, Inc. 317 Happy Day Boulevard, Suite 250 Caldwell, Idaho 83607 208-454-1652
ILLINOIS	Illinois Migrant Council 118 S. Clinton Street, Suite 500 Chicago, Illinois 60661 312-663-1522
INDIANA	Proteus, Inc. 3850 Merle Hay Road, Suite 500 Des Moines, Iowa 50310 515-271-5306
IOWA	Proteus, Inc. 3850 Merle Hay Road, Suite 500 Des Moines, Iowa 50310 515-271-5306
KANSAS	SER Corporation 1020 North Main, Suite D Wichita, Kansas 67203 316-264-5372

KENTUCKY	Kentucky Farmworker Program, Inc. P. O. Box 51146 Bowling Green, Kentucky 42102 270-782-2330
LOUISIANA	Motivation Education & Training, Inc. 124 E. Main Street New Iberia, Louisiana 70560 337-367-6654
MAINE	Eastern Maine Development Corporation 248 State Street, Suite 15A Ellsworth, Maine 04605 207-610-1521
MARYLAND	Telamon Corporation 31901 Tri-County Way, Suite 112 Salisbury, Maryland 21804 410-546-4604
MASSACHUSETTS	New England Farm Workers Council 11-13 Hampden Street, 3rd Floor Springfield, Massachusetts 01103 413-536-5403
MICHIGAN	Telamon Corporation 416 North Cedar Street Lansing, Michigan 48912 517-323-7002
MINNESOTA	Motivation Education & Training, Inc. P. O. Box 1838 New Caney, Texas 77357 830-776-0660
MISSISSIPPI	Mississippi Delta Council for Farmworker Opportunities, Inc. 1005 N. State Street Clarksdale, Mississippi 38614 662-627-1121
MISSOURI	UMOS 4212 South Hocker Drive, Suite 220 Independence, Missouri 64055 816-836-5887
MONTANA	Rural Employment Opportunities P.O. Box 831 Helena, Montana 59624 406-442-7850
NEBRASKA	Proteus, Inc. 3830 VerMaas Place, Suite A Lincoln, Nebraska 685021459 402-805-4004
NEVADA	Oregon Human Development Corporation 9600 Southwest Oak Street, Suite 565 Tigard, Oregon 97223 503-452-6661

NEW HAMPSHIRE	New England Farm Workers Council 11-13 Hampden Street Springfield, Massachusetts 01103 413-272-2299
NEW JERSEY	PathStone Corporation 76 W. Landis Avenue, Suite C Vineland, New Jersey 08360 856-696-1000
NEW MEXICO	HELP-New Mexico, Inc. 5101 Copper Avenue, N.E. Albuquerque, New Mexico 87108 505-766-4950
NEW YORK	PathStone Corporation 400 East Avenue Rochester, New York 14607 585-340-3386
NORTH CAROLINA	Telamon Corporation 5560 Munford Road, Suite 107 Raleigh, North Carolina 27612 919-239-8151
NORTH DAKOTA	Motivation Education & Training, Inc. P. O. Box 1838 New Caney, Texas 77357 281-689-5544
NEW YORK	PathStone Corporation 400 East Avenue Rochester, New York 14607 585-340-3322
OKLAHOMA	ORO Development Corporation 909 S. Meridian Avenue, Suite 350 Oklahoma City, Oklahoma 73108 405-840-7077
OREGON	Oregon Human Development Corporation 9600 Southwest Oak Street, Suite 565 Tigard, Oregon 97223 503-452-6661
PENNSYLVANIA	PathStone Corporation 421 McFarlan Road, Suite E Kennett Square, Pennsylvania 19365 610-925-5600
PUERTO RICO	PathStone Corporation 400 East Avenue Rochester, New York 14607 585-340-3365
RHODE ISLAND	New England Farmworkers Council 56 Arbor Street, Suite 307 Hartford, Connecticut 06114 860-293-2552

SOUTH CAROLINA	Telamon Corporation 2000 Park Street, Suite 103 Columbia, South Carolina 29201 803-667-4218
SOUTH DAKOTA	Black Hills Special Services Cooperative 730 E. Watertown Street Rapid City, South Dakota 57701 605-394-5120
TENNESSEE	Tennessee Opportunity Programs, Inc. 437 Nissan Drive, Suite 502 / P.O. Box 925 Smyrna, Tennessee 37167 615-459-3600
TEXAS	Motivation Education & Training, Inc. P. O. Box 1838 New Caney, Texas 77357 281-689-5544
UTAH	Futures Through Training, Inc. 1140 East 36th Street, Suite 150 Ogden, Utah 84403 801-394-9774
VERMONT	PathStone Corporation 86 North Main Street St. Albans, Vermont 05478 877-764-4109
VIRGINIA	Telamon Corporation 808 Moorefield Park Drive, Suite 106 Richmond, Virginia 23236 804-355-4676
WASHINGTON	OIC of Washington 270-9th Street, N.E. East Wenatchee, Washington 98802 509-665-3718
WEST VIRGINIA	Telamon Corporation 5560 Munford Road, Suite 201 Raleigh, North Carolina 37612 919-239-8117
WISCONSIN	UMOS, Inc. 2701 S. Chase Avenue / P.O. Box 04129 Milwaukee, Wisconsin 53204 414-389-6000
WYOMING	Motivation Education & Training, Inc. P. O. Box 1838 New Caney, Texas 77357 281-689-5544
WASHINGTON, DC (Technical Services)	Association of Farmworker Opportunity Programs 1120-20th Street, N.W., Suite 300 South Washington, D.C. 20036 202-384-1754

Farmworker Housing Services. In addition to job training and employment stabilization support, the Labor Department also provides funding to 11 nonprofit organizations for the development of permanent and temporary housing facilities for migrant and seasonal farmworkers in 31 states and Puerto Rico. The program addresses the need for both single- and multi-family housing, both in the workers' home communities and at their temporary work locations.

NFJP Housing Program Operators

Grantee Organization

Service Area

Community Resources & Housing Development Corporation
7305 Lowell Boulevard, Suite 200
Westminster, Colorado 80030
303-428-1448

Arizona, Colorado, Idaho, New Mexico, Texas

Florida Non-Profit Housing, Inc.
3909 Kenilworth Boulevard / P.O. Box 1987
Sebring, Florida 33871
863-385-2519

Delaware, Florida, Maryland, Mississippi, Virginia

La Cooperativa Campesina de California
7801 Folsom Boulevard, Suite 365
Sacramento, California 95826
916-388-2228

California

Motivation Education & Training, Inc.
P. O. Box 1838
New Caney, Texas 77357
281-689-5544

Texas, Louisiana

Office of Rural and Farmworker Housing
1400 Summitview Avenue, #203
Yakima, Washington 98902
509-248-7014

Washington, Oregon

PathStone Corporation
400 East Avenue
Rochester, New York 14607
585-340-3346

New York, Vermont, New Jersey, Maine,
Pennsylvania, Ohio, Indiana, Puerto Rico

PPEP Microbusiness & Housing Development Corporation
806 E. 46th Street
Tucson, Arizona 85713
520-770-2500

Arizona

Rural Community Assistance Corporation
3120 Freeboard Drive, Suite 201
West Sacramento, California 95691
916-447-9832

California, Hawaii

Self-Help Enterprises
8445 W. Elowin Court / P. O. Box 6520
Visalia, California 93290
559-802-1653

California

Tennessee Opportunity Programs, Inc.
437 Nissan Drive, Suite 502 / P. O. Box 925
Smyrna, Tennessee 37167
615-459-3600

Tennessee

UMOS, Inc.
Nebraska, 2701 S. Chase Avenue / P. O. Box 04129
Milwaukee, Wisconsin 53204
414-389-6006

Illinois, Iowa, Kansas, Minnesota, Missouri,
South Dakota, Wisconsin

AGRICULTURAL WORKER LEGAL ASSISTANCE PROJECTS

In 1974, Congress created the Legal Services Corporation to assist local programs offering free legal services to low-income people. LSC currently provides funding to organizations in 43 states and Puerto Rico to help resolve some of the special legal problems experienced by the nation's agricultural workers. Although these funds cannot be used to represent workers in criminal matters, or individuals who are not authorized to work in the United States, most of the agricultural worker legal assistance projects can handle employment-related cases involving many of the rights mentioned on this site. Click below for a directory of the headquarters offices of the current program operators.

LSC Agricultural Worker Legal Services Grantees

Grantee Organization

States Served

California Rural Legal Assistance, Inc.
1430 Franklin Street, Suite 103
Oakland, California 94612
510-267-0762

California

California Rural Legal Assistance, Inc.
1430 Franklin Street, Suite 103
Oakland, California 94612
510-267-0762

California

Central Virginia Legal Aid Society, Inc.
101 W. Broad Street, Suite 101 / P.O. Box 12206
Richmond, Virginia 23241
804-648-1012

Virginia

Colorado Legal Services
1905 Sherman Street, Suite 400
Denver, Colorado
303-866-9399

Colorado

Florida Rural Legal Services, Inc.
1321 E. Memorial Boulevard
Lakeland, Florida 33801
239-334-4554

Florida

Georgia Legal Services Program
104 Marietta Street, Suite 250
Atlanta, Georgia 30303
404-206-5175

Georgia

Idaho Legal Aid Services, Inc.
1447 S. Tyrell Lane
Boise, Idaho 83706
208-336-8980

Idaho

Indiana Legal Services, Inc.
Market Square Center, Suite 1850
151 N. Delaware Street
Indianapolis, Indiana 46204
317-631-9410

Indiana

Iowa Legal Aid 1111 Ninth Street, Suite 230 Des Moines, Iowa 50314 515-243-2151	Iowa
Legal Assistance Foundation of Metropolitan Chicago (LAF) 120 S. LaSalle Street, Suite 900 Chicago, Illinois 60603 312-341-1070	Illinois
Legal Action of Wisconsin, Inc. 230 W. Wells Street, Room 800 Milwaukee, Wisconsin 53203 414-278-7777	Wisconsin
Legal Aid of Nebraska 209 S. 19th Street, Suite 200 Omaha, Nebraska 68102 402-348-1069	Nebraska
Legal Aid of North Carolina, Inc. 224 S. Dawson Street Raleigh, North Carolina 27601 919-856-2564	North Carolina
Legal Aid of Western Missouri 4001 Blue Parkway, Suite 300 Kansas City, Missouri 64130 816-474-6750	Missouri
Legal Aid of Western Ohio, Inc. 525 Jefferson Avenue, Suite 400 Toledo, Ohio 43604 419-724-0030	Ohio
Legal Aid Services of Oklahoma, Inc. 2915 N. Classen Boulevard, Suite 500 Oklahoma City, Oklahoma 73106 405-557-0020	Oklahoma
Legal Aid Services of Oregon 520 S.W. Sixth Avenue, Suite 1130 Portland, Oregon 97204 503-224-4094	Oregon
Legal Aid Society of Mid-New York, Inc. 268 Genesee Street Utica, New York 13502 315-793-7000	New York
Maryland Legal Aid 500 E. Lexington Street Baltimore, Maryland 21202 410-951-7680	Delaware, Maryland
Michigan Advocacy Program 420 N. Fourth Avenue Ann Arbor, Michigan 48104 734-665-6181	Michigan

Montana Legal Services Association
616 Helena Avenue, Suite 100
Helena, Montana 59601
406-442-9830

Montana

New Mexico Legal Aid
301 Gold Avenue, S.W. / P.O. Box 25486
Albuquerque, New Mexico 87102
505-243-7871

New Mexico

Northwest Justice Project
401 Second Avenue South, Suite 407
Seattle, Washington 98104
206-464-1519

Washington

Philadelphia Legal Assistance Center
718 Arch Street, Suite 300N
Philadelphia, Pennsylvania 19102
215-981-3808

Pennsylvania

Pine Tree Legal Assistance, Inc.
88 Federal Street / P.O. Box 547
Portland, Maine 04112
207-774-4753

Connecticut, Maine, Massachusetts, New
Hampshire, Rhode Island, Vermont

Puerto Rico Legal Services, Inc.
1859 Avenue Ponce de Leon, Pda. 26
Apartado 9134
San Juan, Puerto Rico 00908
787-728-8686

Puerto Rico

South Carolina Legal Services, Inc.
701 S. Main Street
Greenville, South Carolina 29601
803-744-4179

South Carolina

Southern Minnesota Regional Legal Services, Inc.
Alliance Bank Center
55 E. 5th Street, Suite 1000
St. Paul, Minnesota 55101
651-228-9823

Minnesota, North Dakota

South Jersey Legal Services, Inc.
745 Market Street
Camden, New Jersey 08102
856-964-2010

New Jersey

Texas RioGrande Legal Aid, Inc.
300 S. Texas Boulevard
Weslaco, Texas 78596
956-447-4800

Alabama, Arkansas, Kentucky, Louisiana,
Mississippi, Tennessee, Texas

Utah Legal Services, Inc.
205 North 400 West
Salt Lake City, Utah 84103
801-924-3381

Utah

STATE MONITOR ADVOCATES

Under U.S. Department of Labor regulations, farmworkers can report any job-related problem to any career center or local office of the state workforce agency, which must offer to take the complaint in writing. A complaint may be against an employer to whom the worker was referred by the agency, or it may involve services provided by the agency's local offices, but it generally must be filed within 2 years after the alleged violation or incident occurred. In general, if the matter involves an employer to whom the worker was referred by the employment service, the local office must try to resolve the complaint to the worker's satisfaction within 5 working days. Other types of employment problems must be referred by the local office to the proper enforcement agency immediately.

Instead of going through a local employment office, workers may choose to submit any employment-related complaint to the workforce agency's state office. Every complaint received at the state level must generally be resolved within 20 working days of the date of receipt, or be sent to the responsible enforcement agency. As a rule, if the matter is not settled within the 20-day limit, the state office must provide the worker with a written explanation and advise the worker of the right to a hearing.

The workforce agency official responsible for handling farmworker complaints in each state is the State Monitor Advocate, usually located in the headquarters office. Click below for the address and telephone number of the Monitor Advocate in your state.

National Office

National Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
90-7th Street, Suite 17300
San Francisco, California 94103
415-625-7904

Regional Offices

REGION 1 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
JFK Federal Building, Room E-350
Boston, Massachusetts 02203
617-788-0377

REGION 4 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
525 Griffin Square, Room 317
Dallas, Texas 75202
972-850-4618

REGION 2 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
170 S. Independence Mall West, Suite 825 E.
Philadelphia, Pennsylvania 19106
15-861-5251

REGION 5 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
230 S. Dearborn Street, 6th Floor
Chicago, Illinois 60604
312-596-5515

REGION 3 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
61 Forsyth Street, S.W., Room 6M12
Atlanta, Georgia 30303
404-302-5377

REGION 6 Regional Monitor Advocate
Employment and Training Administration
U.S. Department of Labor
90-7th Street, Suite 17300
San Francisco, California 94103
415-625-7924

State Offices

ALABAMA	State Monitor Advocate Employment Service Department Alabama Department of Labor 649 Monroe Street, Room 2813 Montgomery, Alabama 36131 334-242-8020
ARIZONA	State Monitor Advocate Arizona Department of Economic Security 663 N. 1st Street San Luis, Arizona 85349 928-722-5545
ARKANSAS	State Monitor Advocate Arkansas Department of Workforce Services #2 Capital Mall, Room 434 / P. O. Box 2981 Little Rock, Arkansas 72201 501-683-2372
CALIFORNIA	State Monitor Advocate California Employment Development Department 800 Capitol Mall: MIC 74 / P. O. Box 826880 Sacramento, California 95814 916-651-9457 / Toll-Free 866-289-8356
COLORADO	State Monitor Advocate Workforce Development Programs Colorado Department of Labor and Employment 633-17th Street, 7th Floor Denver, Colorado 80202 303-318-8802
CONNECTICUT	State Monitor Advocate Connecticut Department of Labor 200 Folly Brook Boulevard Wethersfield, Connecticut 06109 860-263-6072
DELAWARE	State Monitor Advocate Division of Employment and Training 1114 S. DuPont Highway, Suite 104 Dover, Delaware 19901 302-857-5873
FLORIDA	State Monitor Advocate Workforce Program Support Department of Economic Opportunity 107 E. Madison Street, MSC G-229 Tallahassee, Florida 32399 850-921-3207
GEORGIA	State Monitor Advocate Georgia Department of Labor 148 Andrew Young International Boulevard, N.E., Suite 450 Atlanta, Georgia 30303 888-655-9340

HAWAII	State Monitor Advocate Workforce Development Division Department of Labor and Industrial Relations 830 Punchbowl Street, Room 329 Honolulu, Hawaii 96813 808-586-8820
IDAHO	State Monitor Advocate Idaho Department of Labor 317 W. Main Street Boise, Idaho 83735 208-332-3570 x3135
ILLINOIS	State Monitor Advocate Illinois Department of Employment Security 1701 E. Lincoln Highway DeKalb, Illinois 60115 312-793-1284
INDIANA	State Monitor Advocate Indiana Department of Workforce Development Government Center South, Room SE 308 10 N. Senate Avenue Indianapolis, Indiana 46204 317-233-6681
IOWA	State Monitor Advocate Workforce Services Division Iowa Workforce Development 1000 E. Grand Avenue Des Moines, Iowa 50319 515-725-2835
KANSAS	State Monitor Advocate Kansas Department of Commerce 1000 S.W. Jackson Street, Suite 100 Topeka, Kansas 66612 785-296-5014
KENTUCKY	State Monitor Advocate Office of Employment and Training Kentucky Department of Workforce Investment 275 E. Main Street, 2nd Floor West (2WA) Frankfort, Kentucky 40621 502-782-3079
LOUISIANA	State Monitor Advocate Office of Workforce Development Louisiana Workforce Commission 1001 N. 23rd Street, Capitol Station / P. O. Box 94094 Baton Rouge, Louisiana 70804 225-342-7632
MAINE	State Monitor Advocate Bureau of Labor Standards Maine Department of Labor 185 Lancaster Street Portland, Maine 04101 207-822-0152

MARYLAND	State Monitor Advocate Department of Labor, Licensing and Regulation 1100 N. Eutaw Street, Room 209 Baltimore, Maryland 21201 410-767-2050
MASSACHUSETTS	State Monitor Advocate Division of Career Services Labor and Workforce Development Charles F. Hurley Building 19 Stanford Street, 1st Floor Boston, Massachusetts 02114 617-626-5587
MICHIGAN	State Monitor Advocate Bureau of Workforce Transformation Michigan Department of Energy, Labor and Economic Growth 201 N. Washington Square, 5th Floor Lansing, Michigan 48913 517-241-8669
MINNESOTA	State Monitor Advocate Statewide Systems Department of Employment and Economic Development 332 Minnesota Street, Suite E200 St. Paul, Minnesota 55101 651-259-7513
MISSISSIPPI	State Monitor Advocate Mississippi Department of Employment Security P. O. Box 1699 Jackson, Mississippi 39215 601-321-6030
MISSOURI	State Monitor Advocate Division of Workforce Development Missouri Department of Economic Development 421 E. Dunklin / P. O. Box 1087 Jefferson City, Missouri 65102 573-751-3346
MONTANA	State Monitor Advocate Job Service Operations Bureau, WSD Montana Department of Labor and Industry / P. O. Box 1728 Helena, Montana 59624 406-444-2981
NEBRASKA	State Monitor Advocate Nebraska Department of Labor 550 S. 16th Street Lincoln, Nebraska 68509 402-471-4720
NEVADA	State Monitor Advocate Workforce Investment Support Services Employment Security Division Department of Employment, Training and Rehabilitation 500 E. Third Street Carson City, Nevada 89713 775-684-0315

NEW HAMPSHIRE	State Monitor Advocate New Hampshire Employment Security 32 South Main Street Concord, New Hampshire 03301 603-228-4083
NEW JERSEY	State Monitor Advocate New Jersey Department of Labor and Workforce Development P. O. Box 110, 13th Floor, Suite K Trenton, New Jersey 08625 609-292-4533
NEW MEXICO	State Monitor Advocate New Mexico Department of Workforce Solutions 226 S. Alameda Las Cruces, New Mexico 88005 575-524-6257
NEW YORK	State Monitor Advocate New York State Department of Labor State Office Building Campus Building #12, Room 572 Albany, New York 12240 518-457-0039
NORTH CAROLINA	State Monitor Advocate Division of Employment Security North Carolina Department of Commerce 313 Chapanoke Road, Suite 210 / P. O. Box 27625 Raleigh, North Carolina 27611 919-814-0464
NORTH DAKOTA	State Monitor Advocate Job Service North Dakota 1000 E. Divide Avenue / P. O. Box 5507 Bismarck, North Dakota 58506 701-328-1976
OHIO	State Monitor Advocate Ohio Department of Job and Family Services 4020 E. Fifth Avenue / P. O. Box 1618 Columbus, Ohio 43216 614-466-9646 / Toll-Free 800-282-3525
OKLAHOMA	State Monitor Advocate Oklahoma Employment Security Commission Will Rogers Memorial Building / P. O. Box 52003 Oklahoma City, Oklahoma 73152 405-557-5474
OREGON	State Monitor Advocate Oregon Employment Department 875 Union Street, N.E., Room 201 Salem, Oregon 97311 503-947-1996

PENNSYLVANIA	State Monitor Advocate Bureau of Employer and Career Services Department of Labor and Industry L&I Building, Seventh & Forster Streets, 13th Floor West Harrisburg, Pennsylvania 17120 717-346-1065
PUERTO RICO	State Monitor Advocate Bureau of Employment Security Puerto Rico Department of Labor and Human Resources P. O. Box 195540 / San Juan, Puerto Rico 00919 1590 Ponce de León Avenue, Suite 4 Río Piedras, Puerto Rico 00926 787-625-3137
RHODE ISLAND	State Monitor Advocate Rhode Island Department of Labor and Training 1511 Pontiac Avenue, Building 73-2 Cranston, Rhode Island 02920 401-462-8806
SOUTH CAROLINA	State Monitor Advocate Division of Organizational Integrity South Carolina Department of Employment and Workforce 631 Hampton Street Columbia, South Carolina 29202 803-737-2535
SOUTH DAKOTA	State Monitor Advocate South Dakota Department of Labor Kneip Building, 700 Governors Drive Pierre, South Dakota 57501 605-773-3101
TENNESSEE	State Monitor Advocate Tennessee Department of Labor and Workforce Development 220 French Landing Drive, 4B Nashville, Tennessee 37243 615-741-5671
TEXAS	State Monitor Advocate Texas Workforce Commission 101 E. 15th Street & Congress, Room 202T Austin, Texas 78778 512-475-1179
UTAH	State Monitor Advocate Utah Department of Workforce Services 140 East 300 South Salt Lake City, Utah 84111 801-526-4312
VERMONT	State Monitor Advocate Vermont Department of Labor 201 Lapham Bay Road / P. O. Box 183 Shoreham, Vermont 05770 802-595-2912

VIRGINIA

State Monitor Advocate
Virginia Employment Commission
703 E. Main Street, Room 308
Richmond, Virginia 23219
804-786-6094

WASHINGTON

State Monitor Advocate
Washington State Employment Security Department
1530 Stevens Street / P. O. Box 9046
Walla Walla, Washington 99362
509-527-1844

WEST VIRGINIA

State Monitor Advocate
Employment Services Programs
WorkForce West Virginia
112 California Avenue, Room 406-A
Charleston, West Virginia 25305
304-558-2850

WISCONSIN

State Monitor Advocate
Bureau of Job Service
Division of Employment and Training
Department of Workforce Development
201 E. Washington Avenue, Room E-100 / P. O. Box 7972
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608-266-0487

WYOMING

State Monitor Advocate
Employment Services Division
Wyoming Department of Workforce Services
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